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THE
FEDERAL AND STATE
CONSTITUTIONS,
COLONIAL CHARTERS,
AND OTHER
ORGANIC LAWS
OF
THE UNITED STATES.

V. I.

COMPILED UNDER AN ORDER OF THE UNITED STATES SENATE

By BEN: PERLEY POORE,

CLERK OF PRINTING RECORDS.

PART. TWO
SECOND EDITION.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1878.

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ALLEN COUNTY PUBLIC LIBRARY
FORT WORTH, TEXAS

SECTION TWO

ARTICLE VIII.

TAXATION AND REVENUE.

SECTION 1. The general assembly shall advise and adopt a system of revenue, having regard to an equal and uniform mode of taxation throughout the State.

SEC. 2. No other or greater amount of tax or revenue shall at any time be levied than may be required for the necessary expenses of the government.

SEC. 3. No money shall be drawn from the treasury but in consequence of an appropriation by law, and a regular statement of the receipts and expenditures of all public moneys shall be published and promulgated annually with the laws of the general assembly.

SEC. 4. The general assembly shall have power to authorize the several counties and incorporated towns in this State to impose taxes for county and corporation purposes, respectively, and all property shall be taxed upon the principles established in regard to State taxation.

SEC. 5. The general assembly shall have power to authorize the levying of a capita-tion tax.

ARTICLE IX.

CENSUS AND APPORTIONMENT OF REPRESENTATION.

SECTION 1. The general assembly shall, in the year one thousand eight hundred and sixty-seven, and in the year one thousand eight hundred and seventy-five, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State; and to the whole number of white inhabitants shall be added three-fifths of the number of colored people; and they shall then proceed to apportion the representation equally among the different counties, according to such enumeration, giving, however, one representative to every county, and increasing the number of representatives on a uniform ratio of population, according to the foregoing basis, and which ratio shall not be changed until a new census shall have been taken.

SEC. 2. The general assembly shall also, after every such enumeration, proceed to fix by law the number of senators which shall constitute the senate of the State of Florida, and which shall never be less than one-fourth nor more than one-half of the whole number of the house of representatives; and they shall lay off the State into the same number of senatorial districts, as nearly equal in the number of inhabitants as may be, according to the ratio of representation established in the preceding section, each of which districts shall be entitled to one senator.

SEC. 3. When any senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district.

SEC. 4. No county now organized shall be divided into new counties, so as to reduce the inhabitants of either below the ratio of representation.

SEC. 5. The several counties of this State shall be entitled to the following representatives, viz: Escambia three, Santa Rosa two, Walton two, Holmes one, Washington one, Calhoun one, Franklin one, Jackson four, Gadsden three, Leon four, Wakulla one, Liberty one, Jefferson three, Madison two, Hamilton two, La Fayette one, Taylor one, Suwannee one, Columbia two, Baker one, Bradford one, Alachua two, Nassau one, Duval two, Clay one, Saint John's one, Putnam one, Marion two, Sumter one, Orange one, Volusia one, Brevard one, Levy one, Hernando one, Hillsborough one, Manatee one, Monroe one, Dade one, and Polk one. There shall be twenty-nine senatorial districts in this State, which shall be as follows: The county of Escambia shall compose the first district; the county of Santa Rosa shall compose the second district; the county of Walton shall compose the third district; the counties of Washington and Holmes shall compose the fourth district; the county of Franklin shall compose the fifth district; the county of Calhoun shall compose the sixth district; the county of Jackson shall compose the seventh district; the county of Gadsden shall compose the eighth district; the county of Liberty shall compose the ninth district; the county of Leon shall compose the tenth district; the county of Wakulla shall compose the

eleventh district; the county of Jefferson shall compose the twelfth district; the county of Madison shall compose the thirteenth district; the county of Hamilton shall compose the fourteenth district; the counties of La Fayette and Taylor shall compose the fifteenth district; the county of Columbia shall compose the sixteenth district; the county of Suwannee shall compose the seventeenth district; the counties of Baker and Bradford shall compose the eighteenth district; the county of Alachua shall compose the nineteenth district; the county of Nassau shall compose the twentieth district; the counties of Duval and Clay shall compose the twenty-first district; the counties of Saint John's and Putnam shall compose the twenty-second district; the county of Marion shall compose the twenty-third district; the county of Sumter shall compose the twenty-fourth district; the counties of Orange and Volusia shall compose the twenty-fifth district; the counties of Levy and Hernando shall compose the twenty-sixth district; the counties of Hillsborough and Manatee shall compose the twenty-seventh district; the counties of Polk and Brevard shall compose the twenty-eighth district; and the counties of Monroe and Dale shall compose the twenty-ninth district; and each senatorial district shall be entitled to one senator.

ARTICLE X.

EDUCATION.

SECTION 1. The proceeds of all lands for the use of schools and a seminary or seminaries of learning shall be and remain a perpetual fund, the interest of which, together with all moneys accrued from any other source, applicable to the same object, shall be inviolably appropriated to the use of schools and seminaries of learning respectively, and to no other purpose.

SEC. 2. The general assembly shall take such measures as may be necessary to preserve from waste or damage all lands so granted and appropriated for the purpose of education.

ARTICLE XI.

PUBLIC DOMAIN AND INTERNAL IMPROVEMENT.

SECTION 1. It shall be the duty of the general assembly to provide for the prevention of waste and damage of the public lands, that may hereafter be ceded to the State of Florida, and it may pass laws for the sale of any part or portion thereof, and, in such cases, provide for the safety, security, and appropriation of the proceeds, but in no wise to affect the purposes for which said lands have heretofore been appropriated.

SEC. 2. A liberal system of internal improvements, being essential to the development of the resources of the State, shall be encouraged by the government of this State; and it shall be the duty of the general assembly, as soon as practicable, to ascertain by law proper objects for the extension of internal improvements, in relation to roads, canals, and navigable streams, and to provide for a suitable application of such funds as may have been, or may hereafter be, appropriated by said general assembly for such improvements.

SEC. 3. That the general assembly may at any time cede to the United States Government a sufficient parcel or fraction of land for the purpose of coast defence and other national purposes.

ARTICLE XII.

BOUNDARIES.

SECTION 1. The boundary of the State of Florida shall be as follows: Commencing at the mouth of the river Perdido, from thence up the middle of said river to where it intersects the southern boundary-line of the State of Alabama, on the thirty-first degree of north latitude; then due east to the Chattahoochee river; thence down the middle of said river to its confluence with the Flint River; from thence straight to the head of the Saint Mary's River; thence down the middle of said river to the Atlantic Ocean; thence southwardly to the Gulf of Florida and Gulf of Mexico; thence northwardly and westwardly, including all islands within five leagues of the shore, to the beginning.

ARTICLE XIII.

BANKS AND OTHER CORPORATIONS.

SECTION 1. The general assembly shall pass no act of incorporation, nor make any alteration in one, unless with the assent of at least two-thirds of each house, and unless public notice in one or more newspapers in the State shall have been given for at least three months immediately preceding the session at which the same may be applied for.

SEC. 2. No bank-charter, nor any act of incorporation granting exclusive privileges, shall be granted for a longer period than twenty years.

SEC. 3. Banks chartered by the general assembly shall be restricted to the business of exchange, discount, and deposit, and they shall not deal in real estate, nor in merchandise or chattels, except as security for loans or discounts, or for debts due to such bank; nor shall they be concerned in insurance, manufacturing, exportation, or importation, except of bullion or specie; nor shall they own real estate or chattels, except such as shall be necessary for their actual use in the transaction of business, or which may be received in payment of previously-contracted debts, or purchased at legal sales to satisfy such debts, of which they shall be required to make sale within three years after the acquisition thereof.

SEC. 4. The capital stock of any bank shall not be less than one hundred thousand dollars, to be paid in suitable instalments, and shall be created only by the payment of specie therein.

SEC. 5. All liabilities of such banks shall be payable in specie, and the circulation of no bank shall exceed three dollars for one of capital actually paid in.

SEC. 6. No dividends or profits exceeding ten per centum per annum on the capital stock paid in shall be made; but all profits over ten per centum per annum shall be set apart and retained as a safety fund.

SEC. 7. Stockholders in a bank, when an act of forfeiture is committed, or when it is dissolved or has expired, shall be individually and severally liable for the redemption of the outstanding circulation, in proportion to the stock owned by each; and no transfer of stock shall exonerate such stockholders from this liability, unless such transfer was made at least two years previous to said forfeiture, dissolution, or expiration.

SEC. 8. Banks shall be open to inspection, under such regulations as may be prescribed by law; and it shall be the duty of the governor to appoint a person or persons, not connected in any manner with any bank in the State, to examine at least once a year into their state and condition; and the officers of every bank shall make quarterly returns, under oath, to the governor of its state and condition, and the names of the stockholders, and shares held by each.

SEC. 9. Non-user for the space of one year, or any act of a corporation, or those having the control or management thereof, or intrusted therewith, inconsistent with or in violation of the provisions of this constitution or of its charter, shall cause its forfeiture, and the general assembly shall by general law provide a summary process for the sequestration of its effects and assets, and the appointment of officers to settle its affairs; and no forfeited charter shall be restored.

SEC. 10. The general assembly shall not pledge the faith and credit of the State to raise funds in the aid of any corporation whatever.

ARTICLE XIV.

AMENDMENTS AND REVISIONS OF THE CONSTITUTION.

SECTION 1. No part of this constitution shall be altered except by a convention duly elected.

SEC. 2. No convention of the people shall be called unless by the concurrence of two-thirds of all the members of each house of the general assembly, made known by the passing of a bill, which shall be read three times on three several days in each house.

SEC. 3. Whenever a convention shall be called, proclamation of an election for delegates shall be made by the governor at least thirty days before the day of election.

Every county and senatorial district shall be entitled to as many delegates as it has representatives in the general assembly. The same qualifications shall be required in delegates and in electors that are required in members of the general assembly, and voters for the same respectively; and the elections for delegates to a convention, and the returns of such election, shall be held and made in the manner prescribed by law for regulating elections for members of the general assembly, but the convention shall judge of the qualifications of its members.

ARTICLE XV.

SEAT OF GOVERNMENT.

The seat of government shall be and remain permanent at the city of Tallahassee, until otherwise provided for by the action of a convention of the people of the State.

ARTICLE XVI.

GENERAL PROVISIONS.

SECTION 1. Whereas slavery has been destroyed in this State by the Government of the United States, therefore neither slavery nor involuntary servitude shall in future exist in this State, except as a punishment for crimes whereof the party shall have been convicted by the courts of the State; and all the inhabitants of the State, without distinction of color, are free, and shall enjoy the rights of person and property, without distinction of color.

SEC. 2. In all criminal proceedings founded upon injury to a colored person, and in all cases affecting the rights and remedies of colored persons, no person shall be incompetent to testify as a witness on account of color; in all other cases, the testimony of colored persons shall be excluded, unless made competent by future legislation. The jury shall judge of the credibility of the testimony.

SEC. 3. The jurors of this State shall be white men, possessed of such qualifications as may be prescribed by law.

SEC. 4. Treason against the State shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his confession in open court.

SEC. 5. Divorces from the bonds of matrimony shall not be allowed but by the judgment of a court, as shall be prescribed by law.

SEC. 6. The general assembly shall declare by law what parts of the common law and what parts of the civil law, not inconsistent with this constitution, shall be in force in this State.

SEC. 7. The oaths of officers directed to be taken under this constitution may be administered by any judge or justice of the peace in the State of Florida until otherwise provided by law.

ARTICLE XVII.

SCHEDULE AND ORDINANCE.

SECTION 1. All laws of the State passed during and since the tenth session of the legislature thereof, in 1860, not repugnant to the constitution of this State or of the United States, shall be valid; all writs, actions, prosecutions, judgments, and decrees of the courts of the State, all executions and sales made thereunder, and all acts, orders, and proceedings of the judges of probate, and of executors, administrators, guardians, and trustees, provided they were in conformity to the laws then in force, and not fraudulent, shall be as valid as if made under the usual and ordinary legislation of the country, provided that the same be not repugnant to the constitution of the State and of the United States.

SEC. 2. All fines, penalties, forfeitures, obligations, and escheats heretofore accruing to the State of Florida, and not made unlawful by the constitution or laws of the United States, shall continue to accrue to the use of the State.

SEC. 3. All recognizances heretofore taken shall remain valid, and all bonds executed to the governor of the State of Florida, either before or since the 1st day of January, 1861, or to any other officer of the State in his official capacity, shall be of full force and virtue for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all criminal prosecutions and penal actions which have arisen may be prosecuted to judgment and execution in the name of the State.

SEC. 4. The provisional governor of this State is hereby requested to authorize the civil officers of this State who were discharging the duties of their offices prior to or during the month of May, A. D. 1865, to resume the exercise of the functions of their respective offices, and to make such other appointments to office as may be necessary or proper to reorganize or reestablish the civil government of this State; and all actions at law or suits in chancery, or any proceeding pending in any of the courts in this State prior to or during the said month of May, A. D. 1865, and either before or subsequent to the 10th day of January, A. D. 1861, shall continue in all respects valid, and may be prosecuted to judgment and decree; and all judgments and decrees rendered in civil causes in any of the courts in this State during the period of time last above specified, and not repugnant to the Constitution of the United States, are hereby declared of full force, validity, and effect.

SEC. 5. The provisional governor of the State is hereby requested and authorized, at as early a day as practicable, to issue writs of election to the proper officers in the different counties in this State, and make proclamation for an election for governor, lieutenant-governor, secretary of state, treasurer, comptroller of public accounts, attorney-general, circuit judges, judge of probate, sheriffs, clerks of circuit courts, solicitors, Representative in Congress, senators and representatives of the general assembly, county commissioners, coroners, justices of the peace, county surveyors, and all other officers provided for by this constitution. The said election shall be held on the 29th day of November, A. D. 1865. The said election shall be conducted according to the existing laws of the State of Florida, and shall take place on the same day throughout the State, the returns to be made according to law. The members of the general assembly, so elected, shall assemble on the 3d Monday in December, A. D. 1865. The governor, lieutenant-governor, secretary of state, treasurer, comptroller of public accounts, attorney-general, circuit judges, judges of probate, sheriffs, clerks of circuit courts, solicitors, Representative in Congress, senators and representatives of the general assembly, county commissioners, coroners, justices of the peace, county surveyors, and all other officers provided for by this constitution, shall enter upon the duties of their respective offices immediately after their election, and shall continue in office in the same manner and during the same period they would have done had they been elected on the first Monday in October, A. D. 1865. The Representative in Congress shall continue in office in the same manner and during the same period he would have done had he been elected on the first Monday in October, A. D. 1865.

SEC. 6. The statutes of limitations shall not be pleaded upon any claim in the hands of any person whomsoever, not sued upon when such claim was not barred by the statutes of limitation on the 10th day of January, 1861.

SEC. 7. No law of this State providing that claims or demands against the estates of decedents shall be barred if not presented within two years, shall be considered as being in force within this State between the 10th day of January, 1861, and the 25th day of October, 1865.

Done in open convention. In witness whereof the undersigned, the president of said convention, and delegates present, representing the people of Florida, do hereby sign our names this the seventh day of November, anno Domini eighteen hundred and sixty-five, and of the Independence of the United States the ninetieth year, and the secretary of said convention doth countersign the same.

E. D. TRACY, *President.*

A. J. PEELER, *Secretary.*

CONSTITUTION OF FLORIDA—1868.*

PREAMBLE.

We the people of the State of Florida, grateful to Almighty God for our freedom, in order to secure its blessings and form a more perfect government, insuring domestic tranquillity, maintaining public order, perpetuating liberty, and guaranteeing equal civil and political rights to all, do establish this constitution :

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 1. All men are by nature free and equal, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of its citizens, and they have the right to alter or amend the same whenever the public good may require it; but the paramount allegiance of every citizen is due to the Federal Government, and no power exists with the people of this State to dissolve its connection therewith.

SEC. 3. This State shall ever remain a member of the American Union, the people thereof a part of the American nation, and any attempt, from whatever source, or upon whatever pretence, to dissolve said Union, or to sever said nation, shall be resisted with the whole power of the State.

SEC. 4. The right of trial by jury shall be secured to all, and remain inviolate forever; but in all civil cases a jury-trial may be waived by the parties in the manner to be prescribed by law.

SEC. 5. The free exercise and enjoyment of religious profession and worship shall forever be allowed in this State, and no person shall be rendered incompetent as a witness on account of his religious opinions; but the liberty of conscience hereby secured shall not be so construed as to justify licentiousness, or practices subversive of the peace and safety of the State.

SEC. 6. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of invasion or rebellion, the public safety may require its suspension.

SEC. 7. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment be inflicted, nor shall witnesses be unreasonably detained.

SEC. 8. All persons shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident, the presumption great.

SEC. 9. No person shall be tried for a capital or otherwise infamous crime, except in cases of impeachment, and in cases of the militia when in active service in time of war, or which the State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, made under the regulation of the legislature, unless on presentment and indictment by a grand jury; and in any trial by any court the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken without just compensation.

SEC. 10. Every citizen may fully speak and write his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or the press. In all criminal prosecutions and civil actions for libel the truth may be given in evidence to the jury, and if it shall appear

* This constitution was framed at a convention held under the reconstruction laws at Tallahassee, January 20, 1868, which ignored the constitution of 1865, and completed its work February 25, 1868. It was submitted to the people in May, 1868, and ratified by 14,520 votes against 9,491 votes.

that the matter charged as libellous is true, but was published from good motives, the party shall be acquitted or exonerated.

SEC. 11. The people shall have the right to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievance.

SEC. 12. All laws of a general nature shall have a uniform operation.

SEC. 13. The military shall be subordinate to the civil power.

SEC. 14. No soldier shall, in time of peace, be quartered in any house, except with the consent of the owner, nor in time of war, except in manner prescribed by law.

SEC. 15. Representatives shall be apportioned according to population, as well as may be, but no county shall have more than four representatives and less than one representative in the assembly.

SEC. 16. No person shall be imprisoned for debt, except in case of fraud.

SEC. 17. No bill of attainder, or *ex post facto* law, impairing the obligations of contracts, shall ever be passed.

SEC. 18. Foreigners, who are, or who may hereafter become, *bona-fide* residents of the State, shall enjoy the same rights in respect to possession, enjoyment, and inheritance of property as native-born citizens.

SEC. 19. Neither slavery or involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

SEC. 20. The right of the people to be secure in either person, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated, and no warrants issued but in probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or persons and thing or things to be seized.

SEC. 21. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the overt act, or confession in open court. This enunciation of rights shall not be construed to impair or deny others retained by the people.

SEC. 22. The people shall have the right to bear arms in defence of themselves and of the lawful authority of the State.

SEC. 23. No preference can be given by law to any church, sect, or mode of worship.

ARTICLE II.

BOUNDARIES.

The boundaries of the State of Florida shall be as follows: Commencing at the mouth of the river Perdido; from thence up the middle of said river to where it intersects the south boundary-line of the State of Alabama on the thirty-first degree of north latitude; thence due east to the Chattahoochee River; thence down the middle of said river to its confluence with the Flint River; from thence straight to the head of the Saint Mary's River; thence down the middle of said river to the Atlantic Ocean; thence southeastwardly, along the coast, to the edge of the Gulf Stream; thence southwestwardly, along the edge of the Gulf Stream and Florida Reefs, to and including the Tortugas Islands; thence northwestwardly to a point five leagues from the mainland; thence northwestwardly five leagues from the shore, including all islands, to a point five leagues due south from the middle of the mouth of Perdido River; thence to the place of beginning.

ARTICLE III.

SEAT OF GOVERNMENT.

The seat of government shall be and remain permanent at the city of Tallahassee, in the county of Leon, until otherwise located by a majority vote of the legislature, and by a majority vote of the people.

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ARTICLE IV.

DISTRIBUTION OF POWER.

The powers of the government of the State of Florida shall be divided into three departments, to wit, legislative, executive, and judicial. No person properly belonging to one of the departments shall exercise any functions appertaining to either of the others, except in those cases expressly provided for by this constitution.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a senate and assembly, which shall be designated "The legislature of the State of Florida," and the sessions thereof shall be held at the seat of government of the State.

SEC. 2. The sessions of the legislature shall be annual; the first session on the second Monday of June, A. D. 1868, and thereafter on the first Tuesday after the first Monday of January, commencing in the year A. D. 1869. The governor may, in the interim, convene the legislature in extra session by his proclamation.

SEC. 3. The members of the assembly shall be chosen biennially; those of the first legislature on the first Monday, Tuesday, and Wednesday of May, A. D. 1868, and thereafter on the first Tuesday after the first Monday of November, commencing with the year A. D. 1870.

SEC. 4. Senators shall be chosen for the term of four years, at the same time and place as members of the assembly: *Provided*, That the senators elected at the first election from the senatorial districts designated by even numbers shall vacate their seats at the expiration of two years, and thereafter all senators shall be elected for the term of four years, so that one-half of the whole number shall be elected biennially.

SEC. 5. Senators and members of the assembly shall be duly qualified electors in the respective counties and districts which they represent.

SEC. 6. Each house shall judge of the qualifications, elections, and returns of its own members; choose its own officers, except the president of the senate, determine the rules of its proceedings, and may punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members present, expel a member.

SEC. 7. Either house, during the session, may punish by imprisonment any person, not a member, who shall have been guilty of disorderly or contemptuous conduct in its presence; but such imprisonment shall not extend beyond the final adjournment of the session.

SEC. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the presence of absent members in such manner and under such penalties as each house may prescribe.

SEC. 9. Any person who shall be convicted of embezzlement or defalcation of the funds of this State, or of having given or offered a bribe to secure his election or appointment to office, or of having received a bribe to aid in the procurement of office for any other person, shall be disqualified from holding any office of honor, profit, or trust in the State; and the legislature shall, as soon as practicable, provide by law for the punishment of such embezzlement, defalcation, or bribery as a felony.

SEC. 10. Each house shall keep a journal of its own proceedings, which shall be published, and the yeas and nays of the members of either house on any question shall, at the desire of any three members present, be entered on the journal.

SEC. 11. The doors of each house shall be kept open during its session, except the senate while sitting in executive session; and neither shall, without the consent of the other, adjourn for more than three days, or to any other town than that in which they may be holding their session.

SEC. 12. Any bill may originate in either house of the legislature, and after being passed in one house may be amended in the other.

SEC. 13. The enacting clause of every law shall be as follows: "*The people of the State of Florida, represented in senate and assembly, do enact as follows.*"

SEC. 14. Each law enacted in the legislature shall embrace but one subject, and matters properly connected therewith, which subject shall be briefly expressed in the title; and no law shall be amended or revised by reference to its title only, but in such case the act as revised, or section as amended, shall be reenacted and published at length.

SEC. 15. Every bill shall be read by sections in three several days in each house, unless, in case of emergency, two-thirds of the house where such bill may be pending shall deem it expedient to dispense with this rule; but the reading of a bill by sections on its final passage shall in no case be dispensed with; and the vote on the final passage of every bill, or joint resolution, shall be taken by yeas and nays, to be entered in the journal of each house, and a majority of the members present in each house shall be necessary to pass every bill or joint resolution, and all bills or joint resolutions so passed shall be signed by the presiding officers of the respective houses, and by the secretary of the senate and clerk of the assembly.

SEC. 16. No money shall be drawn from the treasury except by appropriation made by law, and accurate statements of the receipts and expenditures of the public money shall be attached to and published with the laws passed at every regular session of the legislature.

SEC. 17. The legislature shall not pass special or local laws in any of the following enumerated cases, that is to say: regulating the jurisdiction and duties of any class of officers, or for the punishment of crime or misdemeanor; regulating the practices of courts of justice; providing for changing venue of civil and criminal cases; granting divorces; changing the names of persons; vacating roads, town-plats, streets, alleys, and public squares; summoning and impanelling grand and petit juries, and providing for their compensation; regulating county, township, and municipal business; regulating the election of county, township, and municipal officers; or the assessment and collection of taxes for State, county, and municipal purposes; providing for opening and conducting elections for State, county, and municipal officers, and designating the places of voting; providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities; regulating the fees of officers.

SEC. 18. In all cases enumerated in the preceding section, and in all other cases where general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

SEC. 19. Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating.

SEC. 20. Lotteries are hereby prohibited in this State.

SEC. 21. The legislature shall establish a uniform system of county, township, and municipal government.

SEC. 22. The legislature shall provide by general law for incorporating such municipal, educational, agricultural, mechanical, mining, and other useful companies or associations as may be deemed necessary.

SEC. 23. Laws shall be passed regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 24. Regular sessions of the legislature may extend to sixty days, but any special session convened by the governor shall not exceed twenty days.

SEC. 25. All property, both real and personal, of the wife, owned by her before marriage, or acquired afterward by gift, devise, descent, or purchase, shall be her separate property, and not liable for the debts of her husband.

SEC. 26. The legislature shall provide for the election by the people, or appointment by the governor, of all State, county, or municipal officers not otherwise provided for by this constitution, and fix by law their duties and compensation.

SEC. 27. Every bill which may have passed the legislature shall, before becoming a law, be presented to the governor; if he approves it he shall sign it, but if not, he shall return it with his objections to the house in which it originated, which house shall cause such objections to be entered upon its journals, and proceed to reconsider it; if after such reconsideration it shall pass both houses by a two-thirds vote of the

members present, which vote shall be entered on the journal of each house, it shall become a law. If any bill shall not be returned within five days (Sundays excepted) after it shall have been presented to the governor, the same shall be a law, in like manner as if he had signed it. If the legislature by its final adjournment prevent such action, such bill shall be a law, unless the governor, within ten days next after the adjournment, shall file such bill with his objections thereto in the office of the secretary of state, who shall lay the same before the legislature at its next session, and if the same shall receive two-thirds of the votes present it shall become a law.

SEC. 28. The assembly shall have the sole power of impeachment, but a vote of two-thirds of all the members present shall be required to impeach any officer; and all impeachments shall be tried by the senate when sitting for that purpose. The senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the senators present.

The chief-justice shall preside at all trials by impeachment, except in the trial of the chief-justice, when the lieutenant-governor shall preside.

The governor, lieutenant-governor, members of the cabinet, justices of the supreme court, and judges of the circuit court, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall, nevertheless, be liable to indictment, trial, and punishment according to law. All other officers who shall have been appointed to office by the governor, and by and with the consent of the senate, may be removed from office upon the recommendation of the governor and consent of the senate, but they shall nevertheless be liable to indictment, trial, and punishment according to law for any misdemeanor in office; all other civil officers shall be tried for misdemeanors in office in such manner as the legislature may provide.

SEC. 29. The legislature shall elect United States Senators in the manner prescribed by the Congress of the United States and by this constitution.

SEC. 30. Laws making appropriation for the salaries of public officers, and other current expenses of the State, shall contain provisions on no other subject.

ARTICLE VI.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of Florida.

SEC. 2. The governor shall be elected by the qualified electors at the same time and places of voting for the members of the legislature, and shall hold his office for four years from the time of his installation: *Provided*, That the term of the first governor elected under this constitution shall expire at the opening of the regular session of the legislature of A. D. 1873, and until his successor shall be qualified. He shall take the oath of office prescribed for all State officers.

SEC. 3. No person shall be eligible to the office of governor who is not a qualified elector, and who has not been nine years a citizen of the United States, and three years of the State of Florida, next preceding the time of his election.

SEC. 4. The governor shall be commander-in-chief of the military forces of the State, except when they shall be called into the service of the United States.

SEC. 5. He shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the officers of the administrative department upon any subject relating to the duties of their respective offices.

SEC. 6. He shall see that the laws are faithfully executed.

SEC. 7. When any office, from any cause, shall become vacant, and no mode is provided by this constitution or by the laws of the State for filling such vacancy, the governor shall have the power to fill such vacancy by granting a commission which shall expire at the next election.

SEC. 8. The governor may, on extraordinary occasions, convene the legislature by

proclamation, and shall state to both houses, when organized, the purpose for which they have been convened, and the legislature then shall transact no legislative business except that for which they are specially convened, or such other legislative business as the governor may call to the attention of the legislature while in session, except by the unanimous consent of both houses.

SEC. 9. He shall communicate by message to the legislature at each regular session the condition of the State, and recommend such measures as he may deem expedient.

SEC. 10. In case of a disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the legislature to such time as he may think proper, provided it is not beyond the time fixed for the meeting of the next legislature.

SEC. 11. The governor shall have power to suspend the collection of fines and forfeitures, and grant reprieves for a period not exceeding sixty days, dating from the time of conviction, for all offences, except in cases of impeachment. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the legislature at its next session, when the legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve; and if the legislature shall fail or refuse to make final disposition of such case, the sentence shall be enforced at such time and place as the governor may by his order direct. The governor shall communicate to the legislature at the beginning of every session every case of fine or forfeiture remitted or reprieved, pardon or commutation granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, and the date of its remission, commutation, pardon, or reprieve.

SEC. 12. The governor, justices of the supreme court, and attorney-general, or a major part of them, of whom the governor shall be one, may, upon such conditions and with such limitations and restrictions as they may deem proper, remit fines and forfeitures, commute punishments, and grant pardons after conviction, in all cases except treason and impeachments, subject to such regulations as may be provided by law relative to the manner of applying for pardons.

SEC. 13. The grants and commissions shall be in the name and under the authority of the State of Florida, sealed by the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 14. A lieutenant-governor shall be elected at the same time and places, and in the same manner, as the governor, whose term of office and eligibility shall also be the same. He shall be the president of the senate, but shall have only a casting vote therein. If during a vacancy of the office of governor the lieutenant-governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the president *pro tempore* of the senate shall act as governor until the office be filled or the disability cease.

SEC. 15. In the case of the impeachment of the governor, or his removal from office, death, inability to discharge his official duties, or resignation, the power and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease; but the governor shall not, without the consent of the legislature, be out of the State in time of war.

SEC. 16. The governor may at any time require the opinion of the justices of the supreme court as to the interpretation of any portion of this constitution, or upon any point of law, and the supreme court shall render such opinion in writing.

SEC. 17. The governor shall be assisted by a cabinet of administrative officers, consisting of a secretary of state, attorney-general, comptroller, treasurer, surveyor-general, superintendent of public instruction, adjutant-general, and commissioner of immigration. Such officers shall be appointed by the governor, and confirmed by the senate, and shall hold their offices the same time as the governor, or until their successors shall be qualified.

SEC. 18. The governor shall, by and with the consent of the senate, appoint all commissioned officers of the State militia.

SEC. 19. The governor shall appoint, by and with the consent of the senate, in each county, an assessor of taxes and collector of revenue, whose duties shall be prescribed by law, and who shall hold their offices for two years, and be subject to removal upon

the recommendation of the governor and consent of the senate. The governor shall appoint in each county a county treasurer, county surveyor, superintendent of common schools, and five county commissioners, each of whom shall hold his office for two years, the duties of which shall be prescribed by law. Such officers shall be subject to removal by the governor when in his judgment the public welfare will be advanced thereby: *Provided*, No officer shall be removed except for wilful neglect of duty, or a violation of the criminal laws of the State, or for incompetency.

SEC. 20. The governor and cabinet shall constitute a board of commissioners of State institutions, which board shall have supervision of all matters connected therewith, in such manner as shall be prescribed by law.

SEC. 21. The governor shall have power, in cases of insurrection or rebellion, to suspend the writ of *habeas corpus* within the State.

ARTICLE VII.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in a supreme court, circuit courts, county courts, and justices of the peace.

SEC. 2. The style of all process shall be, "The State of Florida;" and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 3. The supreme court shall consist of a chief-justice and two associate justices, who shall hold their offices for life or during good behavior. They shall be appointed by the governor and confirmed by the senate.

SEC. 4. The majority of the justices of the supreme court shall constitute a quorum for the transaction of all business. The supreme court shall hold three terms each year, in the supreme court room at the seat of government. Such terms shall commence on the second Tuesday of October, January, and April, respectively.

SEC. 5. The supreme court shall have appellate jurisdiction in all cases in equity, also in all cases of law in which is involved the title to or right of possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine, or in which the demand or the value of the property in controversy exceeds three hundred dollars; also in all other civil cases not included in the general subdivisions of law and equity; also in all questions of law alone, in all criminal cases in which the offences charged amount to felony. The court shall have power to issue writs of *mandamus*, *certiorari*, prohibition, *quo warranto*, *habeas corpus*, and also all writs necessary or proper to the complete exercise of its appellate jurisdiction.

Each of the justices shall have the power to issue writs of *habeas corpus* to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself, or the supreme court, or before any circuit court in the State, or before any judge of said courts.

SEC. 6. The supreme court shall appoint a clerk of the supreme court, who shall have his office at the capitol, and shall be librarian of the supreme court library; he shall hold his office until his successor is appointed and qualified.

SEC. 7. There shall be seven circuit judges appointed by the governor, and confirmed by the senate, who shall hold their office for eight years. The State shall be divided into seven judicial districts, the limits of which are defined in this constitution, and one judge shall be assigned to each circuit. Such judge shall hold two terms of his court in each county within his circuit each year, at such times and places as shall be prescribed by law. The chief-justice may, in his discretion, order a temporary exchange of circuits by the respective judges, or any judge to hold one or more terms in any other circuit than that to which he is assigned. The judge shall reside in the circuit in which he is assigned.

SEC. 8. The circuit courts in their several judicial circuits shall have original jurisdiction in all cases of equity; also in all cases at law which involve the title or the right of possession to, or the possession of, or the boundaries of real property; of the legality of any tax, impost, assessment, toll, or municipal fine, and in all other cases in which the demand or the value of property in controversy exceeds three hundred dollars, and of the action of forcible entry and unlawful detainer, and also in all

criminal cases amounting to felony. They shall have final appellate jurisdiction in all civil cases arising in the county court in which the amount in controversy is one hundred dollars and upwards, and in all cases of misdemeanor. The circuit courts and the judges thereof shall have power to issue writs of *mandamus*, injunction, *quo warranto*, *certiorari*, and all other writs proper and necessary to the complete exercise of their jurisdiction, and also shall have power to issue writs of *habeas corpus* on petition by or on behalf of any person held in actual custody in their respective circuits.

SEC. 9. There shall be a county court organized in each county. The governor shall appoint a county judge for each county, who shall be confirmed by the senate, and such judge shall hold his office for four years from the date of his commission, or until his successor is appointed and qualified.

SEC. 10. The county court shall be a court of oyer and terminer.

SEC. 11. The county court shall have jurisdiction of all misdemeanors and all civil cases where the amount in controversy does not exceed three hundred dollars; and its jurisdiction shall be final in all civil cases where the amount in controversy does not exceed one hundred dollars; but in no case shall the county court have jurisdiction when the title or boundaries of real estate is in controversy, or where the jurisdiction will conflict with that of the several courts of record; but they may have coextensive jurisdiction with the circuit courts in cases of forcible entry and unlawful detention of real estate, subject to appeal to the circuit court. The county court shall have full surrogate or probate powers, but subject to appeal. Provision shall be made by law for all other powers, duties, and responsibilities of the county courts and judges. There shall be a regular trial-term of the county courts six times in each year, at such times and places as may be prescribed by law.

SEC. 12. The grand and petit jurors shall be taken from the registered voters of the respective counties.

SEC. 13. In all trials, civil and criminal, in the circuit and county courts, the evidence shall be reduced to writing by the clerk of the court or his deputy, under the control of the court; and every witness after his examination shall have done, shall be at liberty to correct the evidence he has given, and afterwards shall sign the same; such evidence shall be filed in the office of the clerk, with the papers in the case.

SEC. 14. All pleas shall be sworn to either by the parties or their attorneys.

SEC. 15. The governor shall appoint as many justices of the peace as he may deem necessary. Justices of the peace shall have criminal jurisdiction and civil jurisdiction not to exceed fifty dollars, but this shall not extend to the trial of any person for misdemeanor or crime. The duties of justice of the peace shall be fixed by law. Justices of the peace shall hold their offices during good behavior, subject to removals by the governor at his own discretion.

SEC. 16. The legislature may establish courts for municipal purposes only in incorporated towns and cities. All laws for the organization or government of municipal courts shall be general in their provisions, and be equally applicable to the municipal courts of all incorporated towns and cities.

SEC. 17. Any civil cause may be tried before a practising attorney as referee, upon the application of the parties, and an order from the court in whose jurisdiction the case may be authorizing such trial and appointing such referee. Such referee shall keep a complete record of the case, including the evidence taken, and such record shall be filed with the papers in the case in the office of the clerk, subject to an appeal in the manner prescribed by law.

SEC. 18. No other courts than those herein specified shall be organized in this State.

SEC. 19. The governor, by and with the advice and consent of the senate, shall appoint a State attorney in each judicial circuit, whose duties shall be prescribed by law. He shall hold his office for four years from the date of his commission, and until his successor shall be appointed and qualified. The governor, by and with the advice and consent of the senate, shall appoint in each county a sheriff and clerk of the circuit court, who shall also be clerk of the county court and board of county commissioners, recorder, and *ex-officio* auditor of the county, each of whom shall hold his office for four years. Their duties shall be prescribed by law.

SEC. 20. A constable shall be elected by the registered voters in each county for

every two hundred registered voters; but each county shall be entitled to at least two constables, and no county shall have more than twelve constables. They shall perform such duties and under such instructions as shall be prescribed by law.

SEC. 21. Attorneys at law, who have been admitted to practice in any court of record in any State in the Union, or to any United States court, shall be admitted to practice in any court of this State on producing evidence of having been so admitted.

ARTICLE VIII.

ADMINISTRATIVE DEPARTMENT.

SECTION 1. There shall be a cabinet of administrative officers, consisting of a secretary of state, attorney-general, comptroller, treasurer, surveyor-general, and superintendent of public instruction, adjutant-general, and commissioner of immigration, who shall assist the governor in the performance of his duties.

SEC. 2. The secretary of state shall keep the records of official acts of the legislative and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall be the custodian of the great seal of the State.

SEC. 3. The attorney-general shall be the legal adviser of the governor and of each of the cabinet officers, and shall perform such other legal duties as the governor may direct, or as may be provided by law. He shall be reporter for the supreme court.

SEC. 4. The treasurer shall receive and keep all funds, bonds, or other securities, in such manner as may be provided by law, and shall disburse no funds, bonds, or other securities, except upon the order of the comptroller, countersigned by the governor, in such manner as shall be prescribed by law.

SEC. 5. The duties of the comptroller shall be prescribed by law.

SEC. 6. The surveyor-general shall have the administrative supervision of all matters pertaining to the public lands, under such regulations as shall be prescribed by law.

SEC. 7. The superintendent of public instruction shall have the administrative supervision of all matters pertaining to public instruction; the supervision of buildings devoted to educational purposes, and the libraries belonging to the university and the common schools. He shall organize a historical bureau for the purpose of accumulating such matter and information as may be necessary for compiling the history of the State. He shall also establish a cabinet of minerals and other natural productions.

SEC. 8. The adjutant-general shall, under the orders of the governor, have the administrative supervision of the military department, and the supervision of State prison, and of the quarantine of the coast, in such manner as shall be prescribed by law.

SEC. 9. The commissioner of immigration shall organize a bureau of immigration for the purposes of furnishing information and for the encouragement of immigration. The office of commissioner of immigration shall expire at the end of fifteen years from the ratification of this constitution, but the legislature shall have power to continue it by law.

SEC. 10. Each officer of the cabinet shall make a full report of his official acts, of the receipts and expenditures of his office, and of the requirements of the same, to the governor, at the beginning of each regular session of the legislature, or whenever the governor shall require it. Such reports shall be laid before the legislature by the governor at the beginning of each regular session thereof. Either house of the legislature may at any time call upon any cabinet officer for information required by it.

ARTICLE IX.

EDUCATION.

SECTION 1. It is the paramount duty of the State to make ample provision for the education of all the children residing within its borders, without distinction or preference.

SEC. 2. The legislature shall provide a uniform system of common schools, and a

university, and shall provide for the liberal maintenance of the same. Instruction in them shall be free.

SEC. 3. There shall be a superintendent of public instruction, whose term of office shall be four years, and until the appointment and qualification of his successor. He shall have general supervision of the educational interests of the State. His duties shall be prescribed by law.

SEC. 4. The common-school fund, the interest of which shall be exclusively applied to the support and maintenance of common schools and purchase of suitable libraries and apparatus therefor, shall be derived from the following sources:

The proceeds of all lands that have been or may hereafter be granted to the State by the United States for educational purposes; donations by individuals for educational purposes; appropriations by the State; the proceeds of lands or other property which may accrue to the State by escheat or forfeiture; the proceeds of all property granted to the State, when the purpose of such grant shall not be specified; all moneys which may be paid as an exemption from military duty; all fines collected under the penal laws of this State; such portion of the *per-capita* tax as may be prescribed by law for educational purposes; twenty-five per centum of the sales of public lands which are now or hereafter may be owned by the State.

SEC. 5. A special tax of not less than one mill on the dollar of all taxable property in the State, in addition to the other means provided, shall be levied and apportioned annually for the support and maintenance of common schools.

SEC. 6. The principal of the common-school fund shall remain sacred and inviolate.

SEC. 7. Provision shall be made by law for the distribution of the common-school fund among the several counties of the State in proportion to the number of children residing therein between the ages of four and twenty-one years.

SEC. 8. Each county shall be required to raise annually by tax, for the support of common schools therein, a sum not less than one-half the amount apportioned to each county for that year from the income of the common-school fund. Any school-district neglecting to establish and maintain for at least three months in each year such school or schools as may be provided by law for such district shall forfeit its portion of the common-school fund during such neglect.

SEC. 9. The superintendent of public instruction, secretary of state, and attorney-general, shall constitute a body-corporate, to be known as the board of education of Florida. The superintendent of public instruction shall be president thereof. The duties of the board of education shall be prescribed by the legislature.

ARTICLE X.

HOMESTEAD.

SECTION 1. A homestead, to the extent of one hundred and sixty acres of land, or the half of one acre within the limits of any incorporated city or town, owned by the head of a family, residing in this State, together with one thousand dollars in value of personal property, and the improvements on the real estate, shall be exempted from forced sale under any process of law, and the real estate shall not be alienable without the joint consent of husband and wife, when that relation exists. But no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon, or for house, field, or other labor performed on the same. The exemption herein provided for in a city or town shall not extend to more improvements or buildings than the residence and business houses of the owner.

SEC. 2. In addition to the exemption provided for in the first section of this article, there shall be and remain exempt from sale by any legal process in this State, to the head of a family residing in this State, such property as he or she may select to the amount of one thousand dollars; said exemption in this section shall only prevent the sale of property in cases where the debt was contracted, liability incurred, or judgment obtained before the 10th day of May, A. D. 1865. Nothing herein con-

tained shall be so construed as to exempt any property from sale for payment of the purchase-money of the same, or for the payment of taxes or labor.

SEC. 3. The exemptions provided for in sections one and two of this article shall accrue to the heirs of the party having enjoyed or taken the benefit of such exemption, and the exemption provided for in section one of this article shall apply to all debts except as specified in said section, no matter when or where the debt was contracted or liability incurred.

ARTICLE XI.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, and deaf, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be provided by law.

SEC. 2. A State prison shall be established and maintained in such a manner as may be fixed by law. Provision may be made by law for the establishment and maintenance of a house of refuge for juvenile offenders, and the legislature shall have power to establish a home and workhouse for common vagrants.

SEC. 3. The respective courts of the State shall provide in the manner fixed by law for those of the inhabitants who, by reason of age, infirmity, or misfortunes, may have claims upon the aid and sympathy of society.

ARTICLE XII.

MILITIA.

SECTION 1. All able-bodied male inhabitants of this State, between the ages of eighteen and forty-five years, who are citizens of the United States, or have declared their intention to become citizens thereof, shall constitute the militia of the State, but no male citizen of whatever religious creed or opinion shall be exempt from military duty except upon such conditions as may be prescribed by law.

SEC. 2. The legislature shall provide by law for organizing and disciplining the militia of the State, for the encouragement of volunteer corps, the safe-keeping of the public arms, and for a guard for the State prison.

SEC. 3. The adjutant-general shall have the grade of major-general. The governor, by and with the consent of the senate, shall appoint two major-generals and four brigadier-generals of militia; they shall take rank according to the date of their commissions. The officers and soldiers of the State militia, when uniformed, shall wear the uniform prescribed for the United States Army.

SEC. 4. The governor shall have power to call out the militia to preserve the public peace, to execute the laws of the State, and to suppress insurrection or repel invasion.

ARTICLE XIII.

TAXATION AND FINANCE.

SECTION 1. The legislature shall provide for a uniform and equal rate of taxation, and shall prescribe such regulations as shall secure a just valuation of all property, both real and personal, excepting such property as may be exempt by law for municipal, educational, literary, scientific, religious, or charitable purposes.

SEC. 2. The legislature shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the principal and interest of the existing indebtedness of the State.

SEC. 3. No tax shall be levied except in pursuance of law.

SEC. 4. No moneys shall be drawn from the treasury except in pursuance of appropriation made by law.

SEC. 5. An accurate statement of the receipts and expenditures of the public moneys shall be published with the laws of each regular session of the legislature.

SEC. 6. The legislature shall authorize the several counties and incorporated towns in the State to impose taxes for county and incorporation purposes, and for no other

purpose, and all property shall be taxed upon the principle established for State taxation. The legislature may also provide for levying a specific capitation tax on licenses. But the capitation tax shall not exceed one dollar per annum for all purposes, excepting for State, county, or municipal taxes.

SEC. 7. The legislature shall have power to provide for issuing State bonds bearing interest, for securing the debt of the State, and for the erection of State buildings, support of State institutions, and perfecting public works.

SEC. 8. No tax shall be levied upon persons for the benefit of any chartered company of the State, or for paying the interest on any bonds issued by said chartered companies, counties, or corporations, for the above-mentioned purposes, and any laws to the contrary are hereby declared null and void.

ARTICLE XIV.

CENSUS AND APPORTIONMENT.

The legislature shall, in the year one thousand eight hundred and seventy-five, and every tenth year thereafter, cause an enumeration to be made of all the inhabitants of the State; and they shall then proceed to apportion the representation among the different counties, giving to each county one representative at large, and one additional to every one thousand registered votes therein, but no county shall be entitled to more than four representatives.

The legislature shall also, after every such enumeration, proceed to fix by law the number of senators which shall constitute the senate of Florida, and which shall never be less than one-fourth nor more than one-half of the whole number of the assembly. When any senatorial district shall be composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district, and no county shall be divided in forming a district, and all counties shall remain as now organized unless changed by a two-thirds vote of both houses of the legislature.

ARTICLE XV.

SUFFRAGE AND ELIGIBILITY.

SECTION 1. Every male person of the age of twenty-one years and upwards, of whatever race, color, nationality, or previous condition, or who shall, at the time of offering to vote, be a citizen of the United States, or who shall have declared his intention to become such in conformity to the laws of the United States, and who shall have resided and had his habitation, domicile, home, and place of permanent abode in Florida for one year, and in the county for six months, next preceding the election at which he shall offer to vote, shall in such county be deemed a qualified elector at all elections under this constitution. Every elector shall, at the time of his registration, take and subscribe to the following oath:

"I, ———, do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States, and the constitution and government of Florida, against all enemies, foreign or domestic; that I will bear true faith, loyalty, and allegiance to the same, any ordinances or resolution of any State convention or legislation to the contrary notwithstanding: so help me God."

SEC. 2. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote at any election; nor shall any person convicted of felony be qualified to vote at any election unless restored to civil rights.

SEC. 3. At any election at which a citizen or subject of any foreign country shall offer to vote, under the provisions of this constitution, he shall present to the persons lawfully authorized to conduct and supervise such election a duly sealed and certified copy of his declaration of intention; otherwise he shall not be allowed to vote; and any naturalized citizen offering to vote, shall produce before said persons, lawfully authorized to conduct and supervise the election, his certificate of naturalization, or a duly sealed and certified copy thereof; otherwise he shall not be permitted to vote.

SEC. 4. The legislature shall have power, and shall enact the necessary laws to ex-

clude from every office of honor, power, trust, or profit, civil or military, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, larceny, or of infamous crime, or who shall make, or become directly or indirectly interested in, any bet or wager, the result of which shall depend upon any election; or who shall hereafter fight a duel, or send or accept a challenge to fight, or who shall be a second to either party, or be the bearer of such challenge or acceptance; but the legal disability shall not accrue until after trial and conviction by due form of law.

SEC. 5. In all elections by the legislature the vote shall be *viva voce*, and in all elections by the people the vote shall be by ballot.

SEC. 6. The legislature at its first session after the ratification of this constitution shall by law provide for the registration, by the clerks of the circuit court in each county, of all the legally qualified voters in such county, and for the returns of elections; and shall also provide that after the completion, from time to time, of such registration, no person not duly registered according to law shall be allowed to vote.

SEC. 7. The legislature shall enact laws requiring educational qualifications for electors after the year one thousand eight hundred and eighty, but no such laws shall be made applicable to any elector who may have registered or voted at any election previous thereto.

ARTICLE XVI.

SCHEDULE.

SECTION 1. That all ordinances and resolutions heretofore passed by any convention of the people, and all acts and resolutions of the legislature, conflicting or inconsistent with the Constitution of the United States, and the statutes thereof, and with this constitution, and in derogation of the existence or position of the State as one of the States of the United States of America, are hereby declared null and void, and of no effect.

SEC. 2. That all acts and resolutions of the general assembly, and all official acts of the civil officers of the State, not inconsistent with the provisions of the Constitution and statutes of the United States, or with this constitution, or with any ordinance or resolution adopted by this convention, and which have not been, and are not by this constitution, annulled, are in force, and shall be considered and esteemed as the laws of the State until such acts or resolutions shall be repealed by the legislature of the State, or this convention.

SEC. 3. All laws of the State passed by the so-called general assembly since the 10th day of January, A. D. 1868, not conflicting with the word and spirit of the Constitution and laws of the United States, or with this constitution, shall be valid; all writs, acts, proceedings, judgments, and decrees of the so-called courts of the State, when actual service was made, as the defendant, all executions and sales made thereunder, and all acts, orders, and proceedings of the judges of probate, and of executors, administrators, guardians, and trustees, provided they were in conformity with the laws then in force, and did not conflict with the Constitution and laws of the United States and this constitution, shall be valid; the sales of the property or effects of deceased persons shall not prevent the widow from claiming said property in kind, in whosoever hands the same may be found, where the sale had not been made for the purpose of paying the debts of deceased, and where other than lawful money of the United States was obtained for said property.

Nothing herein contained shall be so construed as to make any one who was an officer of any court, or who acted under the authority of any court, individually liable, provided they acted strictly in accordance with what was then considered the law of the State, and not conflicting with the Constitution and laws of the United States.

All fines, penalties, forfeitures, obligations, and escheats heretofore accruing to the State of Florida shall continue to accrue to the use of the State.

All recognizances heretofore taken shall remain valid, and all bonds executed to the governor of the State of Florida, either before or since the 10th day of January, A. D. 1861, or to any other officer of the State, in his official capacity, shall be of full force and virtue, for the uses therein respectively expressed, and may be sued for and

recovered accordingly, unless they were contrary to the laws of the United States or to this constitution, or to any ordinance or resolution adopted by the convention; also, all criminal prosecutions which have arisen may be prosecuted to judgment and execution in the name of the State.

All actions at law or suits in chancery, or any proceedings pending in the courts of this State, either prior to or subsequent to the 10th day of January, A. D. 1861, shall continue in all respects valid, and may be prosecuted to judgment and decree.

All judgments and decrees rendered in civil causes in any of the courts of the State during the period of time above specified are hereby declared of full force, validity, and effect: *Provided*, That, unless otherwise provided in this constitution, the statute of limitation shall not be pleaded upon any claim in the hands of any person for the period of time between the 10th day of January, A. D. 1861, and the 25th day of October, 1865, whether proceedings at law had been commenced before the 25th day of October, 1865, or not: *Provided, further*, That all claims of widows, minors, and decedents, which were not barred by the statutes of this State on the 10th day of January, 1861, shall be considered good and valid for the period of two years from the ratification of this constitution.

SEC. 4. That State treasury notes, all bonds issued, and all other liabilities contracted by the State of Florida, or any county or city thereof, on and after the 10th day of January, A. D. 1861, and before the 25th day of October, A. D. 1865, except such liabilities as may be due to the seminary or school fund, be and are declared null and void, and the legislature shall have no power to provide for the payment of the same or any part thereof, but this shall not be construed so as to invalidate any authorized liabilities of the State contracted prior to the 10th day of January, A. D. 1861, or subsequent to the 25th day of October, A. D. 1865.

SEC. 5. No money shall ever be appropriated by this State to re-imburse purchasers of United States land who purchased the same of the State of Florida.

SEC. 6. All proceedings, decisions, or actions accomplished by civil or military officers acting under authority of the United States subsequent to the 10th day of January, 1861, and prior to the final restoration of the State to the Government of the United States, are hereby declared valid, and shall not be subject to adjudication in the courts of this State; nor shall any person acting in the capacity of a soldier or officer of the United States, civil or military, be subject to arrest for any act performed by him pursuant to authorized instructions from his superior officers during the period of time above designated.

SEC. 7. That in all cases where judgments have been obtained against citizens of the State after the 10th day of January, 1861, previous to the 25th day of October, 1865, and where actual service was not made on the person of any defendant, such defendant, not served with process, may appear in court within one year after the adoption of this constitution, and make oath that injustice has been done and that he or she has a good and valid defence, stating the defence, and upon making such oath and filing said defence, the proceedings in the judgment shall cease until the defence is heard.

ARTICLE XVII.

MISCELLANEOUS.

SECTION 1. Any person debarred from holding office in the State of Florida by the third section of the fourteenth article of the proposed amendment to the Constitution of the United States, which is as follows: "No person shall be a Senator or Representative in Congress, or elector of President or Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid and comfort to enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability," is hereby debarred from holding office in this State: *Provided*, That whenever such disability from holding office shall be removed from any person by the Congress of the United States, the removal of such

disability shall also apply to this State, and such person shall be restored, in all respects, to the rights of citizenship as herein provided for electors.

SEC. 2. Any person elected to the Senate of the United States by the legislature of this State, or any person elected by the people, or appointed to office by the governor of the State, or by any officer of the State, under the provisions of the constitution adopted by the convention of the people, convened on the 25th day of October, 1865, shall not be empowered to hold such office after the same position or office shall have been filled by election or appointment under the provisions of this constitution: *Provided*, That all officers holding office under the provisions of the constitution adopted the 25th day of October, A. D. 1865, and not provided for in this constitution, shall continue to hold their respective offices, and discharge the duties thereof, until the governor shall, by his proclamation, declare such offices vacant.

SEC. 3. The several judicial circuits of the circuit courts shall be as follows: The first judicial circuit shall be composed of the counties of Escambia, Santa Rosa, Walton, Holmes, Washington, and Jackson; the second judicial circuit shall be composed of the counties of Gadsden, Liberty, Calhoun, Franklin, Leon, Wakulla, and Jefferson; the third judicial circuit shall be composed of the counties of Madison, Taylor, La Fayette, Hamilton, Suwannee, and Columbia; the fourth judicial circuit shall be composed of the counties of Nassau, Duval, Baker, Bradford, Clay, and Saint John's; the fifth judicial circuit shall be composed of the counties of Putnam, Alachua, Levy, Marion, and Sumter; the sixth judicial circuit shall be composed of the counties of Hernando, Hillsborough, Manatee, Polk, and Monroe; the seventh judicial circuit shall be composed of the counties of Volusia, Brevard, Orange, and Dade.

SEC. 4. The salary of the governor of the State shall be \$5,000 per annum; that of the chief-justice shall be \$4,500; that of each associate justice shall be \$4,000; that of each judge of the circuit court shall be \$3,500; that of the lieutenant-governor shall be \$2,500; that of each cabinet officer shall be \$3,000. The pay of the members of the senate and house of representatives shall be \$500 per annum, and in addition thereto ten cents per mile for each mile travelled from their respective places of residence to the capital, and the same to return. But such distances shall be estimated by the shortest general public thoroughfare. All other officers of the State shall be paid by fees as per diem fixed by law.

SEC. 5. The legislature shall appropriate \$2,000 each year for the purchase of such books for the supreme court library as the said court shall direct.

SEC. 6. The salary of each officer shall be payable quarterly upon his own requisition.

SEC. 7. The tribe of Indians located in the southern portion of the State, and known as the Seminole Indians, shall be entitled to one member in each house of the legislature. Such member shall have all the rights, privileges, and remuneration as other members of the legislature. Such members shall be elected by the members of their tribe, in the manner prescribed for all elections by this constitution. The tribe shall be represented only by a member of the same, and in no case by a white man: *Provided*, That the representatives of the Seminole Indians shall not be a bar to the representation of any county by the citizens thereof.

SEC. 8. The legislature may at any time impose such tax on the Indians as they may deem proper; and such imposition of tax shall constitute the Indians citizens, and they shall thenceforward be entitled to all the privileges of other citizens, and thereafter be barred of special representation.

SEC. 9. In addition to other crimes and misdemeanors for which an officer may be impeached and tried, shall be included drunkenness and other dissipations; incompetency, malfeasance in office, gambling, or any conduct detrimental to good morals shall be considered sufficient cause for impeachment and conviction. Any officer, when impeached by the assembly, shall be deemed under arrest, and shall be disqualified from performing any of the duties of his office until acquitted by the senate. But any officer so impeached and in arrest may demand his trial by the senate within ten days of the date of his impeachment.

SEC. 10. The following shall be the oath of office for each officer in the State,

including members of the legislature: "I do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States, and of the State of Florida, against all enemies, domestic or foreign, and that I will bear true faith, loyalty, and allegiance to the same, and that I am entitled to hold office under this constitution; that I will well and faithfully perform all the duties of the office of ———, which I am about to enter: so help me God."

SEC. 11. The legislature may provide for the donation of the public lands to actual settlers; but such donation shall not exceed one hundred and sixty acres to any one person.

SEC. 12. All county officers shall hold their respective offices at the county seats of their counties.

SEC. 13. The legislature shall provide for the speedy publication of all statutes and laws of general nature. All decisions of the supreme court, and all laws and judicial decisions, shall be for free publication by any person. But no judgment of the supreme court shall take effect and be operative until the opinion of the court in such case shall be filed with the clerk of said court.

SEC. 14. The legislature shall not create any office, the term of which shall be longer than four years.

SEC. 15. The governor, cabinet, and supreme court shall keep their offices at the seat of government. But in case of invasion or violent epidemics, the governor may direct that the offices of the government shall be removed temporarily to some other place. The session of the legislature may be adjourned for the same cause to some other place; but in such case of removal all the departments of the government shall be removed to one place. But such removal shall not continue longer than the necessity for the same shall continue.

SEC. 16. A plurality of votes given at an election by the people shall constitute a choice when not otherwise provided by this constitution.

SEC. 17. The term of the State officers elected at the first election under this constitution, not otherwise provided for, shall continue until the first Tuesday of January, A. D. 1873, and until the installation of their successors, excepting the members of the legislature.

SEC. 18. Each county and incorporated city shall make provision for the support of its own officers, subject to such regulations as may be prescribed by law. Each county shall make provision for building a court-house and jail, and for keeping the same in good repair.

SEC. 19. If at the meeting of the senate at any session the lieutenant-governor has not been qualified or is not present, the senate shall elect one of its members as temporary president before proceeding to other business.

SEC. 20. The legislature shall at the first session adopt a seal for the State, and such seal shall be of the size of the American silver dollar. But said seal shall not again be changed after its adoption by the legislature; and the governor shall, by his proclamation, announce that the said seal has become the great seal of the State.

SEC. 21. The governor, lieutenant-governor, and all the State officers elected by the people shall be installed on the first day of the meeting of the legislature, and immediately assume the duties of their respective offices.

SEC. 22. The governor and lieutenant-governor shall have been, before their election to office, nine years a citizen of the United States, and three years a citizen of the State. All other officers shall have been one year a citizen of the State, and six months a citizen of the county from which they are elected or appointed. No person shall be eligible to any office unless he be a registered voter.

SEC. 23. The governor or any State officer is hereby prohibited from giving certificates of election or other credentials to any person as having been elected to the House of Representatives of the United States Congress, or the United States Senate, who has not been two years a citizen of the State, and nine years a citizen of the United States, and a registered voter.

SEC. 24. The property of all corporations, whether heretofore or hereafter incorporated, shall be subject to taxation, unless such corporation be for religious, educational, or charitable purposes.

SEC. 25. All bills, bonds, notes, or evidences of debt outstanding and unpaid, given for or in consideration of bonds or treasury-notes of the so-called Confederate States, or notes and bonds of this State paid and redeemable in the bonds and notes of the Confederate States, are hereby declared null and void, and no action shall be maintained thereon in the courts of this State.

SEC. 26. It shall be the duty of the courts to consider that there is a failure of consideration, and it shall be so held by the courts of this State, upon all deeds or bills of sale given for slaves with covenant or warrantee of title or soundness, or both; upon all bills, bonds, notes, or other evidences of debt, given for or in consideration of slaves, which are now outstanding and unpaid, and no action shall be maintained thereon; and all judgments and decrees rendered in any of the courts of this State since the 10th day of January, A. D. 1861, upon all deeds or bills of sale, or upon any bond, bill, note, or other evidence of debt based upon the sale or purchase of slaves, are hereby declared set aside, and the plea of failure of consideration shall be held a good defence in all actions to said suit; and that when money was due previous to the 10th day of January, 1861, and slaves were given in consideration for such money, these shall be deemed a failure of consideration for the debt: *Provided*, That settlements and compromises of such transaction made by the parties thereto shall be respected.

SEC. 27. All persons who, as alien enemies under the sequestration act of the so-called confederate congress, and now resident of the State, had property sequestered and sold by any person acting under a law of the so-called Confederate States, or the State of Florida, subsequent to the 10th day of January, A. D. 1861, and prior to the 1st day of January, 1865, shall be empowered to file a bill in equity in the circuit court of the State, and shall be entitled to obtain judgment against the State for all damages sustained by said sale and detention of property. The court shall estimate the damages upon the assessed valuation of the property in question in the year A. D. 1870, with interest at six per cent. from the time the owner was deprived of the same.

But all judgments against the State shall be paid only in certificates of indebtedness, redeemable in State lands. Said certificates shall be issued by the governor, countersigned by the secretary of state and by the comptroller, upon the decree of the court. Oral testimony shall be sufficient to establish the fact of a sale having been made.

SEC. 28. There shall be no civil or political distinction in this State on account of race, color, or previous condition of servitude, and the legislature shall have no power to prohibit by law any class of persons, on account of race, color, or previous condition of servitude, to vote or hold any office, beyond the conditions prescribed by this constitution.

SEC. 29. The apportionment for the assembly shall be as follows: Escambia, two; Santa Rosa, one; Walton, one; Holmes, one; Washington, one; Jackson, three; Calhoun, one; Gadsden, two; Franklin, one; Liberty, one; Wakulla, one; Leon, four; Jefferson, three; Madison, two; Taylor, one; Hamilton, one; Suwannee, one; La Fayette, one; Alachua, two; Columbia, two; Baker, one; Bradford, one; Nassau, one; Duval, two; Clay, one; Saint John's, one; Putnam, one; Marion, two; Levy, one; Volusia, one; Orange, one; Brevard, one; Dade, one; Hillsborough, one; Hernando, one; Sumter, one; Polk, one; Manatee, one; and Monroe, one. There shall be twenty-four senatorial districts, which shall be as follows, and shall be known by their respective numbers from one to twenty-four inclusive: The first senatorial district shall be composed of Escambia county; the second, of Santa Rosa and Walton; the third, of Jackson; the fourth, of Volusia and Washington; the fifth, of Calhoun and Franklin; the sixth, of Gadsden; the seventh, of Liberty and Wakulla; the eighth, of Leon; the ninth, of Jefferson; the tenth, of Madison; the eleventh, of Hamilton and Suwannee; the twelfth, of La Fayette and Taylor; the thirteenth, of Alachua and Levy; the fourteenth, of Columbia; the fifteenth, of Bradford and Clay; the sixteenth, of Baker and Nassau; the seventeenth, of Saint John's and Putnam; the eighteenth, of Duval; the nineteenth, of Marion; the twentieth, of Volusia and Orange; the twenty-first, of Dade and Brevard; the twenty-second, of Hillsborough and Hernando; the

twenty-third, of Sumter and Polk; the twenty-fourth, of Manatee and Monroe; and each senatorial district shall be entitled to one senator.

SEC. 30. No person shall ever be appointed a judge of the supreme court or circuit court who is not twenty-five years of age and practising attorney.

SEC. 31. The legislature shall, as soon as convenient, adopt a State emblem, having the design of the great seal of the State impressed upon a white ground, of six feet six inches fly and six feet deep.

ARTICLE XVIII.

AMENDMENTS.

Any amendment or amendments to this constitution may be proposed in either branch of the legislature; and if the same shall be agreed upon by a two-thirds vote of all the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their respective journals, with the yeas and nays thereon, and referred to the legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice; and if, in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a two-thirds vote of all the members elected to each house, then it should be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner and at such time as the legislature may prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become a part of the constitution.

SEC. 2. If at any time the legislature, by a vote of a majority of all the members elected to each of the two houses, shall determine that it is necessary to cause a revision of this entire constitution, such determination shall be entered on their respective journals, with the yeas and nays thereon, and referred to the legislature then next to be chosen, and shall be published for three months next preceding the time of making such choice.

And if in the legislature next chosen aforesaid such proposed revision shall be agreed by a majority of all the members elected to each house, then it shall be the duty of the legislature to recommend to the electors of the next election for members of the legislature to vote for or against a convention; and if it shall appear that a majority of the electors voting at such election shall have voted in favor of calling a convention, the legislature shall, at its next session, provide by law for a convention, to be holden within six months after the passage of such law, and such convention shall consist of a number of members not less than both branches of the legislature.

In determining what is a majority of the electors voting at such election, reference shall be had to the highest number of votes cast at such election for the candidates for any office or on any question.

Done in open convention. In witness whereof, we, the undersigned delegates, representing the people of Florida, in convention assembled, do hereunto affix our names this twenty-fifth day of February, one thousand eight hundred and sixty-eight, and of the Independence of the United States the ninety-second, and the secretary doth countersign the same.

HORATIO JENKINS, JR., *President.*

S. CONANT, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1868.*

RATIFIED 1870.

ARTICLE I. The salary of the governor of the State shall be three thousand five hundred dollars per annum ; that of each justice of the supreme court shall be three thousand dollars ; that of each judge of the circuit courts shall be two thousand five hundred dollars ; that of each cabinet officer shall be two thousand dollars ; that of the lieutenant-governor shall be five hundred dollars, and he shall receive the same mileage as members of the legislature. The pay of members of the legislature shall be a per diem, to be fixed by law, for each day's actual attendance, and in addition thereto ten cents per mile for travelling-expenses for each mile from their respective places of residence to the capital, estimated by the shortest thoroughfare, and the same to return. All other officers of the State shall be paid by fees or per diem, fixed by law. No legislature shall increase its own pay.

ART. II. The several members of the cabinet of administrative officers shall be elected by the people.

ART. III. The sixth and seventh judicial districts are hereby abolished, and the limits of the first, second, third, fourth, and fifth judicial districts shall be defined by law.

ART. IV. The offices of surveyor-general and commissioner of immigration are hereby consolidated under the name of commissioner of lands and immigration.

ART. V. The thirteenth section of the sixth article of the constitution is hereby abrogated.

ART. VI. The third, fifth, and twenty-seventh sections of the sixteenth article of the constitution are hereby abrogated.

ART. VII. The number of terms of the supreme court, and the time of holding the same, shall be fixed by law.

ART. VIII. The legislature shall have power to prescribe regulations for calling into the supreme court a judge of the circuit court, to hear and determine any matter pending before the court, in the place of any justice thereof who shall be disqualified or disabled in such case from interest or other cause.

ART. IX. That the following portion of section nine, Article XVI, of the constitution is hereby abrogated:

"Any officer when impeached by the assembly shall be deemed under arrest, and shall be disqualified from performing any of the duties of his office until acquitted by the senate ; but any officer so impeached and in arrest may demand his trial by the senate within one year from the date of his impeachment."

RATIFIED 1875.

ARTICLE I. Section two of article four of the constitution is hereby amended so as to read as follows:

SEC. 2. From and after the first Tuesday after the first Monday in January, A. D. one thousand eight hundred and seventy-seven, the regular sessions of the legislature shall be held biennially, commencing on said day and on the corresponding day of every second year thereafter, but the governor may convene the same in extra session by his proclamation.

ART. II. Section twenty-nine of article four of the constitution is hereby amended so as to read as follows:

SEC. 29. The assembly shall have the sole power of impeachment, but a vote of two-thirds of all the members present shall be required to impeach any officer, and all impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the senators present. The senate may adjourn to a fixed day for the trial of any impeachment, and may sit for the purpose of such trial

*These amendments were passed at two successive sessions of the legislature, and then ratified by the people.

whether the assembly be in session or not, but the time fixed for such trial shall not be more than six months from the time articles of impeachment shall be preferred by the assembly. The chief-justice shall preside at all trials by impeachment except in the trial of the chief-justice, when the lieutenant-governor shall preside. The governor, lieutenant-governor, members of the cabinet, justices of the supreme court, and judges of the circuit court, shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the State, but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other officers who shall have been appointed to office by the governor, and by and with the consent of the senate, may be removed from office upon the recommendation of the governor, and consent of the senate, but they shall nevertheless be liable to indictment, trial, and punishment according to law for any misdemeanor in office. All other civil officers shall be tried for misdemeanor in office in such manner as the legislature may provide.

ART. III. Section seven of article twelve of the constitution is hereby amended so as to read as follows:

SEC. 7. The legislature shall have power to provide for issuing State bonds bearing interest for securing the debt of the State, for the erection of State buildings, and for the support of State institutions, but the credit of the State shall not be pledged or loaned to any individual company, corporation, or association; nor shall the State become a joint owner or stockholder in any company, association, or corporation. The legislature shall not authorize any county, city, borough, township, or incorporated district to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution, or individual.

ART. IV. Section five of article six of the constitution is hereby amended so as to read as follows:

SEC. 5. The supreme court shall have appellate jurisdiction in all cases at law and in equity commenced in circuit courts and of appeal from the circuit court in cases arising in the county court as a court of probate, and in the management of the estates of infants, and in all criminal cases commenced in the circuit court. The court shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, habeas corpus, and also all writs necessary or proper to the complete exercise of its jurisdiction. Each of the justices shall have the power to issue writs of habeas corpus to any part of the State upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the supreme court, or any justice thereof, or before any circuit judge.

Section eight of article six of the constitution is hereby amended so as to read as follows:

SEC. 8. The circuit courts shall have original jurisdiction in all cases in equity, also in all cases at law in which the demand or the value of the property involved exceeds one hundred dollars, and of all cases involving the legality of any tax assessment, toll, or municipal fine, and of the action of forcible entry and unlawful detainer, and of actions involving the titles or right of possession of real estate, and of all criminal cases, except such as may be cognizable by law by inferior courts. They shall have appellate jurisdiction of matters pertaining to the probate jurisdiction and the estates and interests of minors in the county courts, and of such other matters as may be provided by law, and final appellate jurisdiction in all civil cases arising in the court of a justice of the peace in which the amount or value of property involved is twenty-five dollars and upwards, and of misdemeanors tried before any justice's or mayor's court. The circuit courts and judges shall have power to issue writs of mandamus, injunction, quo warranto, certiorari, habeas corpus, and all writs proper and necessary to the complete exercise of their jurisdiction.

Section ten of article six of the constitution is hereby abrogated.

Section eleven of article six of the constitution is hereby amended so as to read as follows:

SEC. 11. The county court shall have power to take probate of wills, to grant

letters testamentary, and of administration and guardianship, to attend to the settlement of the estates of decedents and of minors, and to discharge the duties usually pertaining to courts of probate, subject to the direction and supervision of the appellate and equity jurisdiction of the circuit court as may be provided by law. And the county judges shall have and exercise the civil and criminal jurisdiction of justices of the peace. They may also have jurisdiction of such proceedings relating to the forcible entry or unlawful detention of lands and tenements subject to the appellate jurisdiction of the circuit court as may be provided by law.

Section fifteen of article six of the constitution is hereby amended so as to read as follows:

SEC. 15. The governor shall appoint as many justices of the peace as he may deem necessary. Justices of the peace shall have jurisdiction in civil actions at law in cases in which the amount or value involved does not exceed one hundred dollars; and in criminal cases their powers shall be fixed by law. Their powers, duties, and responsibilities shall be regulated by law. They may hold their offices for the term of four years, subject to removal by the governor for reasons satisfactory to him.

ART. V. Section seven of article six of the constitution is hereby amended so as to read as follows:

SEC. 7. There shall be five circuit judges appointed by the governor and confirmed by the senate, who shall hold their respective offices for the term of six years from the time of their qualification. The State shall be divided into five judicial circuits as defined in this constitution, and the judge of each circuit shall reside in the circuit to which he shall be appointed. Each judge shall hold the terms of the court at such times and places as may be prescribed by law, and he may hold special terms with or without juries. The chief-justice may, in his discretion, order a temporary exchange of circuits by the respective judges, or designate any judge to hold a general or special term, or part of a term, in any other circuit than that one in which he resides.

Section three of article sixteen of the constitution is hereby amended so as to read as follows:

SEC. 3. The several judicial circuits of the circuit courts shall be as follows:

The first judicial circuit shall be composed of the counties of Escambia, Santa Rosa, Walton, Holmes, Washington, Jackson, Calhoun, and Franklin.

The second judicial circuit shall be composed of the counties of Liberty, Gadsden, Leon, Wakulla, Jefferson, Madison, Taylor, and La Fayette.

The third judicial circuit shall be composed of the counties of Hamilton, Suwannee, Columbia, Baker, Bradford, Alachua, and Levy.

The fourth judicial circuit shall be composed of the counties of Nassau, Duval, Clay, Saint Johns, Putnam, Volusia, Orange, Brevard, and Dade.

The fifth judicial circuit shall be composed of the counties of Marion, Sumpter, Hernando, Hillsborough, Polk, Manatee, and Monroe.

ART. VI. Section twelve of article six of the constitution is hereby amended so as to read as follows:

SEC. 12. Grand and petit jurors shall be taken from the registered voters of the respective counties. The number of jurors for the trial of causes in any court may be fixed by law.

ART. VII. Sections seven and eight of article sixteen of the constitution are hereby abrogated.

ART. VIII. Section twenty-four of article sixteen of the constitution is hereby amended so as to read as follows:

SEC. 24. The property of all corporations, whether heretofore or hereafter incorporated, shall be subject to taxation, unless such property be held and used exclusively for religious, educational, or charitable purposes.

ART. IX. Section twenty-two of article five of the constitution shall read as follows:

SEC. 22. The governor shall have power to disapprove of any item or items of any bill making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

ART. X. Section fourteen of article five of the constitution is hereby amended so as to read as follows:

SEC. 14. A lieutenant-governor shall be elected at the same time and places and in the same manner as the governor, whose term of office and eligibility shall also be the same. He shall be the president of the senate, but shall only have a casting vote therein. In the case of the impeachment of the governor or his removal from office, death, inability to discharge his official duties, or resignation, the power and duties of the office shall devolve upon the lieutenant-governor for the residue of the term, or until the disability shall cease. In the case of the impeachment of the lieutenant-governor or his removal from office, death, inability to discharge his official duties, or resignation, the power and duties of the office shall devolve upon the president *pro tempore* of the senate.

In case a vacancy shall occur both in the offices of governor and lieutenant-governor, the legislature shall at its next session order an election to fill such vacancies. But the governor shall not, without the consent of the legislature, be out of the State in time of war.

Section fifteen of article five of the constitution is hereby abrogated.

ART. XI. Section sixteen of article five of the constitution is hereby amended so as to read as follows:

SEC. 16. The governor may at any time require the opinion of the justices of the supreme court as to the interpretation of any portion of this constitution upon any question affecting his executive powers and duties, and the justices shall render such opinion in writing.

GEORGIA.

CHARTER OF GEORGIA—1732.*

GEORGE the second, by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, and so forth. To all to whom these presents shall come, greeting.

Whereas we are credibly informed, that many of our poor subjects are, through misfortunes and want of employment, reduced to great necessity, insomuch as by their labor they are not able to provide a maintenance for themselves and families; and if they had means to defray their charges of passage, and other expences, incident to new settlements, they would be glad to settle in any of our provinces in America where by cultivating the lands, at present waste and desolate, they might not only gain a comfortable subsistence for themselves and families, but also strengthen our colonies and increase the trade, navigation and wealth of these our realms. And whereas our provinces in North America, have been frequently ravaged by Indian enemies; more especially that of South-Carolina, which in the late war, by the neighboring savages, was laid waste by fire and sword, and great numbers of English inhabitants, miserably massacred, and our loving subjects who now inhabit them, by reason of the smallness of their numbers, will in case of a new war, be exposed to the late calamities; inasmuch as their whole southern frontier continueth unsettled, and lieth open to the said savages—And whereas we think it highly becoming our crown and royal dignity, to protect all our loving subjects, be they never so distant from us; to extend our fatherly compassion even to the meanest and most infatuated of our people, and to relieve the wants of our above mentioned poor subjects; and that it will be highly conducive for accomplishing those ends, that a regular colony of the said poor people be settled and established in the southern territories of Carolina. And whereas we have been well assured, that if we will be graciously pleased to erect and settle a corporation, for the receiving, managing and disposing of the contributions of our loving subjects; divers persons would be induced to contribute to the purposes aforesaid—Know ye therefore, that we have, for the considerations aforesaid, and for the better and more orderly carrying on of the said good purposes; of our special grace, certain knowledge and mere motion, willed, ordained, constituted and appointed, and by these presents, for us, our heirs and successors, do will, ordain, constitute, declare and grant, that our right trusty and well beloved John, lord-viscount Purcival, of our kingdom of Ireland, our trusty and well beloved Edward Digby, George Carpenter, James Oglethorpe, George Heathcote, Thomas Tower, Robert Moore, Robert Hucks, Roger Holland, William Sloper, Francis Eyles, John Laroche, James Vernon, William Beletha, esquires, A. M. John Burton, B. D. Richard Bundy, A. M. Arthur Bedford, A. M. Samuel Smith, A. M. Adam Anderson and Thomas Corane, gentlemen; and such other persons as shall be elected in the manner herein after mentioned, and their successors to be elected in the manner herein after directed; be, and shall be one body politic and corporate, in deed and in name, by the name of the Trustees for establishing the colony of Georgia in America; and them and their successors by the same name, we do, by these presents, for us, our heirs and suc-

* Georgia was included in a proprietary charter granted to the lords proprietors of Carolina in 1662-'63, for which a provincial charter was substituted in 1719. The charter of Georgia, as an independent Colony, was granted to a company organized by James Oglethorpe, esq., who desired to provide in the New World homes for indigent persons. This charter was surrendered June 20, 1752, and a provincial government, with a governor and council, was substituted, on the recommendation of the lords commissioners for trade and plantations.

cessors, really and fully make, ordain, constitute and declare, to be one body politic in deed and in name forever; and that by the same name, they and their successors, shall and may have perpetual succession; and that they and their successors by that name shall and may forever hereafter, be persons able and capable in the law, to purchase, have, take, receive and enjoy, to them and their successors, any manors, messuages, lands, tenements, rents, advowsons, liberties, privileges, jurisdictions, franchises, and other hereditaments whatsoever, lying and being in Great Britain, or any part thereof, of whatsoever nature, kind or quality, or value they be, in fee and in perpetuity, not exceeding the yearly value of one thousand pounds, beyond reprises; also estates for lives, and for years, and all other manner of goods, chattels and things whatsoever they be; for the better settling and supporting, and maintaining the said colony, and other uses aforesaid; and to give, grant, let and demise the said manors, messuages, lands, tenements, hereditaments, goods, chattels and things whatsoever aforesaid, by lease or leases, for term of years, in possession at the time of granting thereof, and not in reversion, not exceeding the term of thirty-one years, from the time of granting thereof; on which in case no fine be taken, shall be reserved the full, and in case a fine be taken, shall be reserved at least a moiety of the value that the same shall reasonably and *bona fide* be worth at the time of such demise; and that they and their successors, by the name aforesaid, shall and may forever hereafter, be persons able, capable in the law, to purchase, have, take, receive, and enjoy, to them and their successors, any lands, territories, possessions, tenements, jurisdictions, franchises and hereditaments whatsoever, lying and being in America, of what quantity, quality or value whatsoever they be, for the better settling and supporting and maintaining the said colony; and that by the name aforesaid they shall and may be able to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts and places whatsoever, and before whatsoever judges, justices, and other officers, of us, our heirs and successors, in all and singular actions, complaints, pleas, matters, suits and demands, of what kind, nature or quality soever they be; and to act and to do, all matters and things in as ample manner and form as any other our liege subjects of this realm of Great Britain, and that they and their successors forever hereafter, shall and may have a common seal, to serve for the causes and businesses of them and their successors; and that it shall and may be lawful for them and their successors, to change, break, alter and make new the said seal, from time to time, and at their pleasure, and as they shall think best. And we do further grant, for us, our heirs and successors, that the said corporation, and the common council of the said corporation, hereinafter by us appointed, may from time to time, and at all times, meet about their affairs when and where they please, and transact and carry on the business of the said corporation. And for the better execution of the purposes aforesaid, we do, by these presents, for us, our heirs and successors, give & grant to the said corporation, and their successors, that they and their successors forever, may upon the third Thursday in the month of March, yearly, meet at some convenient place to be appointed by the said corporation, or major part of them who shall be present at any meeting of the said corporation, to be had for the appointing of the said place; and that they, or two thirds of such of them, that shall be present at such yearly meeting, and at no other meeting of the said corporation, between the hours of ten in the morning and four in the afternoon of the same day, choose and elect such person or persons to be members of the said corporation, as they shall think beneficial to the good designs of the said corporation. And our further will and pleasure is, that if it shall happen that any person hereinafter by us appointed, as the common council of the said corporation, or any persons to be elected or admitted members of the said common council in the manner hereafter directed, shall die, or shall by writing under his and their hands respectively resign his or their office or offices of common council man or common council men; the said corporation, or the major part of such of them as shall be present, shall and may at such meeting, on the said third Thursday in March yearly, in manner as aforesaid, next after such death or resignation, and at no other meeting of the said corporation, into the room or place of such person or persons so dead or so resigning, elect and choose one or more such person or persons, being members of the said corporation, as to them shall seem meet: and our will is, that all and every the person or persons which shall from time to time hereafter be elected common council

men of the said corporation as aforesaid, do and shall, before he or they act as common men of the said corporation, take an oath for the faithful and due execution of their office; which oath the president of the said corporation for the time being, is hereby authorized and required to administer to such person or persons elected as aforesaid. And our will and pleasure is, that the first president of the said corporation is and shall be our trusty and well-beloved, the said Lord John Viscount Percival; and that the said president shall, within thirty days after the passing this charter, cause a summons to be issued to the several members of the said corporation herein particularly named, to meet at such time and place as he shall appoint, to consult about and transact the business of said corporation. And our will and pleasure is, and we, by these presents, for us, our heirs, and successors, grant, ordain, and direct, that the common council of this corporation shall consist of fifteen in number; and we do, by these presents, nominate, constitute, and appoint our right trusty and well-beloved John Lord Viscount Percival, our trusty and beloved Edward Digby, George Carpenter, James Oglethorpe, George Heathcote, Thomas Laroche, James Vernon, William Beltha, esqrs., and Stephen Hales, Master of Arts, to be the common council of the said corporation, to continue in the said office during their good behavior. And whereas it is our royal intention, that the members of the said corporation should be increased by election, as soon as conveniently may be, to a greater number than is hereby nominated; Our further will and pleasure is, and we do hereby, for us, our heirs and successors, ordain and direct, that from the time of such increase of the members of the said corporation, the number of the common council shall be increased to twenty-four; and that the same assembly at which such additional members of the said corporation shall be chosen, there shall likewise be elected in the manner hereinbefore directed for the election of common council men, nine persons to be the said common council men, and to make up the number twenty-four. And our further will and pleasure is, that our trusty and well beloved Edward Digby, esquire, shall be the first chairman of the common council of the said corporation; and that the said lord-viscount Percival shall be, and continue, president of the said corporation, and that the said Edward Digby shall be and continue chairman of the common council of the said corporation, respectively, until the meeting which shall be had next and immediately after the first meeting of the said corporation, or of the common council of the said corporation respectively, and no longer; at which said second meeting, and every other subsequent and future meeting of the said corporation or of the common council of the said corporation respectively, in order to preserve an indifferent rotation of the several offices, of president of the corporation, and of chairman of the common council of the said corporation we do direct and ordain that all and every the person and persons, members of the said common council for the time being, and no other, being present at such meetings, shall severally and respectively in their turns, preside at the meetings which shall from time to time be held of the said corporation, or of the common council of the said corporation respectively: and in case any doubt or question shall at any time arise touching or concerning the right of any member of the said common council to preside at any meeting of the said corporation, or at the common council of the said corporation, the same shall respectively be determined by the major part of the said corporation, or of the common council of the said corporation respectively, who shall be present at such meeting. Provided always, that no member of the said common council having served in the offices of president of the said corporation, or of chairman of the common council of the said corporation, shall be capable of being, or of serving as president or chairman at any meeting of the said corporation, or common council of the said corporation next and immediately ensuing that in which he so served as president of the said corporation or chairman of the said common council of the said corporation respectively; unless it shall so happen that at any such meeting of the said corporation, there shall not be any other member of the said common council present. And our will and pleasure is, that at all and every of the meetings of the said corporation, or of the common council of the said corporation, the president or chairman for the time being, shall have a voice and shall vote, and shall act as a member of the said corporation or of the common council of the said corporation, at such meeting; and in case of any equality of votes, the said president or chairman for the time being, shall have a casting vote. And

our further will and pleasure is, that no president of the said corporation, or chairman of the common council of the said corporation, or member of the said common council or corporation, by us by these presents appointed, or hereafter from time to time to be elected and appointed in manner aforesaid, shall have, take, or receive, directly or indirectly, any salary, fee, perquisite, benefit or profit whatsoever, for or by reason of his or their serving the said corporation, or common council of the said corporation, or president, chairman or common council-man, or as being a member of the said corporation. And our will and pleasure is, that the said herein before appointed president, chairman or common council-men, before he and they act respectively as such, shall severally take an oath for the faithful and due execution of their trust, to be administered to the president by the Chief Baron of our Court of Exchequer, for the time being, and by the president of the said corporation to the rest of the common council, who are hereby authorised severally and respectively, to administer the same. And our will and pleasure is, that all and every person and persons, shall have in his or their own name or names, or in the name or names of any person or persons in trust for him or them, or for his or their benefit, any place, office or employment of profit, under the said corporation, shall be incapable of being elected a member of the said corporation; and if any member of the said corporation during such time as he shall continue a member thereof, shall in his own name or in the name of any person or persons, in trust for him or for his benefit, have, hold or exercise, accept, possess or enjoy, any office, place or employment of profit, under the said corporation, or under the common council of the said corporation—such member shall from the time of his having, holding, exercising, accepting possessing and enjoying such office, place and employment of profit, cease to be a member of the said corporation. And we do for us, our heirs and successors, grant unto the said corporation, that they and their successors or the major part of such of them as shall be present at any meeting of the said corporation, convened and assembled for that purpose by a convenient notice thereof, shall have power from time to time, and at all times hereafter, to authorize and appoint such persons as they shall think fit to take subscriptions, and to gather and collect such moneys as shall be by any person or persons contributed for the purposes aforesaid; and shall and may revoke and make void such authorities and appointments, as often as they shall see cause so to do. And we do hereby for us, our heirs and successors, ordain and direct, that the said corporation every year lay an account in writing before the chancellor, or speaker, or commissioners, for the custody of the great seal of Great-Britain, of us, our heirs and successors; the Chief Justice of the Court of King's Bench, the Master of Rolls the Chief Justice of the Court of Common Pleas, and the chief Baron of the Exchequer of us, our heirs and successors for the time being, or any two of them; of all moneys and effects by them received or expended, for carrying on the good purposes aforesaid. And we do hereby, for us, our heirs and successors, give and grant unto the said corporation, and their successors, full power and authority to constitute, ordain and make, such and so many by-laws, constitutions, orders and ordinances, as to them, or the greater part of them, at their general meeting for that purpose, shall seem necessary and convenient for the well ordaining and governing of the said corporation; and the said by-laws, constitutions, orders and ordinances, or any of them, to alter and annul, as they or the major part of them then present shall see requisite: and in and by such by-laws, rules, orders and ordinances, to sell, impose and inflict, reasonable pains and penalties upon any offender or offenders, who shall transgress, break or violate the said by-laws, constitutions, orders and ordinances, so made as aforesaid, and to mitigate the same as they or the major part of them then present shall think convenient; which said pains and penalties, shall and may be levied, sued for, taken, retained and recovered, by the said corporation and their successors, by their officers and servants, from time to time, to be appointed for that purpose, by action of debt, or by any other lawful ways or means, to the use and behoof of the said corporation and their successors, all and singular: which by-laws, constitutions, orders and ordinances, so as aforesaid to be made, we will shall be duly observed and kept, under the pains and penalties therein to be contained, so always, as the said by-laws, constitutions, orders, and ordinances, pains and penalties, from time to time to be made and imposed, be reasonable and not

contrary or repugnant to the laws or statutes of this our realm; and that such by-laws, constitutions and ordinances, pains and penalties, from time to time to be made and imposed; and any repeal or alteration thereof, or any of them, may be likewise agreed to be established and confirmed by the said general meeting of the said corporation, to be held and kept next after the same shall be respectively made. And whereas the said corporation intend to settle a colony, and to make an habitation and plantation in that part of our province of South-Carolina, in America, herein after described—Know ye, that we greatly desiring the happy success of the said corporation, for their further encouragement in accomplishing so excellent a work have of our aforesaid grace, certain knowledge and mere motion, given and granted by these presents, for us, our heirs and successors, do give and grant to the said corporation and their successors under the reservation, limitation and declaration, hereafter expressed, seven undivided parts, the whole in eight equal parts to be divided, of all those lands, countrys and territories, situate, lying and being in that part of South-Carolina, in America, which lies from the most northern part of a stream or river there, commonly called the Savannah, all along the sea coast to the southward, unto the most southern stream of a certain other great water or river called the Alatamaha, and westerly from the heads of the said rivers respectively, in direct lines to the south seas; and all that share, circuit and precinct of land, within the said boundaries, with the islands on the sea, lying opposite to the eastern coast of the said lands, within twenty leagues of the same, which are not inhabited already, or settled by any authority derived from the crown of Great-Britain: together with all the soils, grounds, havens, ports, gulfs and bays, mines, as well royal mines of gold and silver, as other minerals, precious stones, quarries, woods, rivers, waters, fishings, as well royal fishings of whale and sturgeon as other fishings, pearls, commodities, jurisdictions, royalties, franchises, privileges and pre-eminences within the said frontiers and precincts thereof and thereunto, in any sort belonging or appertaining, and which we by our letters patent may or can grant, and in as ample manner and sort as we may or any of our royal progenitors have hitherto granted to any company, body politic or corporate, or to any adventurer or adventurers, undertaker or undertakers, of any discoveries, plantations or traffic, of, in, or unto any foreign parts whatsoever; and in as legal and ample manner, as if the same were herein particularly mentioned and expressed: to have, hold, possess and enjoy, the said seven undivided parts, the whole into eight equal parts, to be divided as aforesaid, of all and singular the lands, countries and territories, with all and singular other the premises herein before by these presents granted or mentioned, or intended to be granted to them, the said corporation, and their successors forever, for the better support of the said colony, to be holden of us, our heirs and successors, as of our honour of Hampton-court, in our county of Middlesex in free and common soccage, and not in capite, yielding, and paying therefor to us, our heirs and successors yearly forever, the sum of four shillings for every hundred acres of the said lands, which the said corporation shall grant, demise, plant or settle; the said payment not to commence or to be made, until ten years after such grant, demise, planting or settling; and to be answered and paid to us, our heirs and successors, in such manner and in such species of money or notes, as shall be current in payment, by proclamation from time to time, in our said province of South-Carolina. All which lands, countries, territories and premises, hereby granted or mentioned, and intended to be granted, we do by these presents, make, erect and create one independent and separate province, by the name of Georgia, by which name we will, the same henceforth be called. And that all and every person or persons, who shall at any time hereafter inhabit or reside within our said province, shall be, and are hereby declared to be free, and shall not be subject to or be bound to obey any laws, orders, statutes or constitutions, which have been heretofore made, ordered or enacted by, for, or as, the laws, orders, statutes or constitutions of our said province of South-Carolina, (save and except only the in chief of the militia, of our said province of Georgia, to our governor for the time being of South-Carolina, in manner hereafter declared;) but shall be subject to, and bound to obey, such laws, orders, statutes and constitutions as shall from time to time be made, ordered and enacted, for the better government of the said province of Georgia, in the manner hereinafter declared. And we do hereby, for our heirs and successors, ordain, will and establish, that for

and during the term of twenty-one years, to commence from the date of these our letters patent, the said corporation assembled for that purpose, shall and may form and prepare, laws, statutes and ordinances, fit and necessary for and concerning the government of the said colony, and not repugnant to the laws and statutes of England; and the same shall and may present under their common seal to us, our heirs and successors, in our or their privy council for our or their approbation or disallowance: and the said laws, statutes and ordinances, being approved of by us, our heirs and successors, in our or their privy council, shall from thence forth be in full force and virtue within our said province of Georgia. And forasmuch as the good and prosperous success of the said colony cannot but chiefly depend, next under the blessing of God, and the support of our royal authority, upon the provident and good direction of the whole enterprise, and that it will be too great a burthen upon all the members of the said corporation to be convened so often as may be requisite, to hold meetings for the settling, supporting, ordering, and maintaining the said colony; therefore we do will, ordain and establish, that the said common council for the time being, of the said corporation, being assembled for that purpose, or the major part of them, shall from time to time, and at all times hereafter, have full power and authority to dispose of, extend and apply all the monies and effects belonging to the said corporation, in such manner and ways and by such expenses as they shall think best to conduce to the carrying on and effecting the good purposes herein mentioned and intended; and also shall have full power in the name and on account of the said corporation, and with and under their common seal, to enter under any covenants or contracts, for carrying on and effecting the purposes aforesaid. And our further will and pleasure is, that the said common council for the time being, or the major part of such common council, which shall be present and assembled for that purpose, from time to time, and at all times hereafter, shall and may nominate, constitute and appoint a treasurer or treasurers, secretary or secretaries, and such other officers, ministers and servants of the said corporation as to them or the major part of them as shall be present, shall seem proper or requisite for the good management of their affairs; and at their will and pleasure to displace, remove and put out such treasurer or treasurers, secretary or secretaries, and all such other officers, ministers and servants, as often as they shall think fit so to do; and others in the room, office, place or station of him or them so displaced, removed or put out, to nominate, constitute and appoint; and shall and may determine and appoint, such reasonable salaries, perquisites and other rewards, for their labor, or service of such officers, servants and persons as to the said common council shall seem meet; and all such officers servants and persons shall, before the acting in their respective offices, take an oath to be to them administered by the chairman for the time being of the said common council of the said corporation, who is hereby authorized to administer the same, for the faithful and due execution of their respective offices and places. And our will and pleasure is, that all such person and persons, who shall from time to time be chosen or appointed treasurer or treasurers, secretary or secretaries of the said corporation, in manner herein after directed, shall during such times as they shall serve in the said offices respectively, be incapable of being a member of the said corporation. And we do further of our special grace, certain knowledge and mere motion, for us, our heirs and successors, grant, by these presents, to the said corporation and their successors, that it shall be lawful for them and their officers or agents, at all times hereafter, to transport and convey out of our realm of Great-Britain, or any other of our dominions, into the said province of Georgia, to be there settled so many of our loving subjects, or any foreigners that are willing to become our subjects, and live under our allegiance, in the said colony, as shall be willing to go to, inhabit, or reside there, with sufficient shipping, armour, weapons, powder, shot, ordnance, munition, victuals, merchandize and wares, as are esteemed by the wild people; clothing, implements, furniture, cattle, horses, mares, and all other things necessary for the said colony, and for the use and defence and trade with the people there, and in passing and returning to and from the same. Also we do, for ourselves and successors, declare, by these presents, that all and every the persons which shall happen to be born within the said province, and every of their children and posterity, shall have and enjoy all liberties, franchises and immunities of free denizens and natural born subjects,

within any of our dominions, to all intents and purposes, as if abiding and born within this our kingdom of Great-Britain, or any other dominion.—And for the greater ease and encouragement of our loving subjects and such others as shall come to inhabit in our said colony, we do by these presents, for us, our heirs and successors, grant, establish and ordain, that forever hereafter, there shall be a liberty of conscience allowed in the worship of God, to all persons inhabiting, or which shall inhabit or be resident within our said province, and that all such persons, except papists, shall have a free exercise of religion, so they be contented with the quiet and peaceable enjoyment of the same, not giving offence or scandal to the government. And our further will and pleasure is, and we do hereby for us, our heirs and successors, declare and grant, that it shall and may be lawful for the said common council, or the major part of them assembled for that purpose, in the name of the corporation, and under the common seal, to distribute, convey, assign and set over such particular portions of lands, tenements and hereditaments by these presents granted to the said corporation, unto such our loving subjects, natural born, denizens or others that shall be willing to become our subjects, and live under our allegiance in the said colony, upon such terms, and for such estates, and upon such rents, reservations and conditions as the same may be lawfully granted, and as to the said common council, or the major part of them so present, shall seem fit and proper. Provided always that no grants shall be made of any part of the said lands unto any person, being a member of the said corporation, or to any other person in trust, for the benefit of any member of the said corporation; and that no person having any estate or interest, in law or equity, in any part of the said lands, shall be capable of being a member of the said corporation, during the continuance of such estate or interest. Provided also, that no greater quantity of lands be granted, either entirely or in parcels, to or for the use, or in trust for any one person, than five hundred acres; and that all grants made contrary to the true intent and meaning hereof, shall be absolutely null and void. And we do hereby grant and ordain, that such person or persons, for the time being as shall be thereunto appointed by the said corporation, shall and may at all times, and from time to time hereafter, have full power and authority to administer and give the oaths, appointed by an act of parliament, made in the first year of the reign of our late royal father, to be taken instead of the oaths of allegiance and supremacy; and also the oath of abjuration, to all and every person and persons which shall at any time be inhabiting or residing within our said colony; and in like cases to administer the solemn affirmation to any of the persons commonly called quakers, in such manner as by the laws of our realm of Great-Britain, the same may be administered. And we do, of our further grace, certain knowledge and mere motion, grant, establish and ordain, for us, our heirs and successors, that the said corporation and their successors, shall have full power and authority, for and during the term of twenty-one years, to commence from the date of these our letters patent, to erect and constitute judicatories and courts of record, or other courts, to be held in the name of us, our heirs and successors for the hearing and determining of all manner of crimes, offences, pleas, processes, complaints, actions, matters, causes and things whatsoever, arising or happening, within the said province of Georgia, or between persons of Georgia; whether the same be criminal or civil, and whether the said crimes be capital or not capital, and whether the said pleas be real, personal or mixed: and for awarding and making out executions thereupon; to which courts and judicatories, we do hereby, for us, our heirs and successors, give and grant full power and authority, from time to time, to administer oaths for the discovery of truth in any matter in controversy, or depending before them, or the solemn affirmation, to any of the persons commonly called quakers, in such manner, as by the laws of our realm of Great-Britain, the same may be administered. And our further will and pleasure is, that the said corporation and their successors, do from time to time, and at all times hereafter, register or cause to be registered, all such leases, grants, plantings, conveyances, settlements, and improvements whatsoever, as shall at any time hereafter be made by, or in the name of the said corporation, of any lands, tenements or hereditaments within the said province; and shall yearly send and transmit, or cause to be sent or transmitted, authentic accounts of such leases, grants, conveyances, settlements and improvements respectively, unto the auditor of the plantations for the time being,

or his deputy, and also to our surveyor for the time being of our said province of South-Carolina; to whom we do hereby grant full power and authority from time to time, as often as need shall require, to inspect and survey, such of the said lands and premises, as shall be demised, granted and settled as aforesaid: which said survey and inspection, we do hereby declare, to be intended to ascertain the quit-rents which shall from time to time become due to us, our heirs and successors, according to the reservation herein before mentioned, and for no other purposes whatsoever; hereby for us, our heirs and successors, strictly enjoining and commanding, that neither our or their surveyor, or any person whatsoever, under the pretext and colour of making the said survey or inspection, shall take, demand or receive, any gratuity, fee or reward, of or from, any person or persons, inhabiting in the said colony, or from the said corporation or common council of the same, on the pain of forfeiture of the said office or offices, and incurring our highest displeasure. Provided always, and our further will and pleasure is, that all leases, grants and conveyances to be made by or in the name of the said corporation, of any lands within the said province, or a memorial containing the substance and effect thereof, shall be registered with the auditor of the said plantations, of us, our heirs and successors, within the space of one year, to be computed from the date thereof, otherwise the same shall be void. And our further will and pleasure is, that the rents, issues and all other profits, which shall at any time hereafter come to the said corporation, or the major part of them which shall be present at any meeting for that purpose assembled, shall think will most improve and enlarge the said colony, and best answer the good purposes herein before mentioned, and for defraying all other charges about the same. And our will and pleasure is, that the said corporation and their successors, shall from time to time give in to one of the principal secretaries of state, and to the commissioners of trade and plantations, accounts of the progresses of the said colony. And our will and pleasure is that no act done at any meeting of the said common council of the said corporation, shall be effectual and valid, unless eight members at least of the said common council, including the member who shall serve as chairman at the said meeting, be present, and the major part of them consenting thereunto. And our will and pleasure is, that the common council of the said corporation for the time being, or the major part of them who shall be present, being assembled for that purpose, shall from time to time, for, and during, and unto the full end and expiration of twenty-one years, to commence from the date of these our letters patent, have full power and authority to nominate, make, constitute and commission, ordain and appoint, by such name or names, style or styles, as to them shall seem meet and fitting, all and singular such governors, judges, magistrates, ministers and officers, civil and military, both by sea and land, within the said districts, as shall by them be thought fit and needful to be made or used for the said government of the said colony; save always, and except such offices only as shall by us, our heirs and successors, be from time to time constituted and appointed, for the managing collecting and receiving such revenues, as shall from time to time arise within the said province of Georgia, and become due to us, our heirs and successors. Provided always, and it is our will and pleasure, that every governor of the said province of Georgia, to be appointed by the common council of the said corporation, before he shall enter upon or execute the said office of governor, shall be approved by us, our heirs or successors, and shall take such oaths, and shall qualify himself in such manner, in all respects, as any governor or commander in chief of any of our colonies or plantations in America, are by law required to do; and shall give good and sufficient security for observing the several acts of parliament relating to trade and navigation, and to observe and obey all instructions that shall be sent to him by us, our heirs and successors, or any acting under our or their authority, pursuant to the said acts, or any of them. And we do by these presents for us, our heirs and successors, will, grant and ordain, that the said corporation and their successors, shall have full power for and during and until the full end and term of twenty-one years, to commence from the date of these our letters patent, by any commander or other officer or officers, by them for that purpose from time to time appointed, to train and instruct, exercise and govern a militia, for the special defence and safety of our said colony, to assemble in martial array, the inhabitants of the said colony, and to lead and conduct them, and with them to encounter, expulse,

repel, resist and pursue, by force of arms, as well by sea as by land, within or without the limits of our said colony; and also to kill, slay and destroy, and conquer by all fitting ways, enterprizes and means whatsoever, all and every such person or persons as shall at any time hereafter, in any hostile manner, attempt or enterprize the destruction, invasion, detriment or annoyance of our said colony; and to use and exercise the martial law in time of actual war and invasion or rebellion, in such cases, where by law the same may be used or exercised; and also from time to time to erect forts, and fortify any place or places within our said colony, and the same to furnish with all necessary ammunition, provisions and stores of war, for offence and defence, and to commit from time to time the custody or government of the same, to such person or persons as to them shall seem meet: and the said forts and fortifications to demolish at their pleasure; and to take and surprize, by all ways and means, all and every such person or persons, with their ships, arms, ammunition and other goods, as shall in an hostile manner, invade or attempt the invading, conquering or annoying of our said colony. And our will and pleasure is, and we do hereby, for us, our heirs and successors, declare and grant, that the governor and commander in chief of the province of South-Carolina, of us, our heirs and successors, for the time being, shall at all times hereafter have the chief command of the militia of our said province, hereby erected and established; and that such militia shall observe and obey all orders and directions, that shall from time to time be given or sent to them by the said governor or commander in chief; any thing in these presents before contained to the contrary hereof, in any wise notwithstanding. And, of our more special grace, certain knowledge and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, unto the said corporation and their successors, full power and authority to import and export their goods, at and from any port or ports that shall be appointed by us, our heirs and successors, within the said province of Georgia, for that purpose, without being obliged to touch at any other port in South-Carolina. And we do, by these presents, for us, our heirs and successors, will and declare, that from and after the termination of the said term or twenty-one years, such form of government and method of making laws, statutes and ordinances, for the better governing and ordering the said province of Georgia, and the inhabitants thereof, shall be established and observed within the same, as we, our heirs and successors, shall hereafter ordain and appoint, and shall be agreeably to law; and that from and after the determination of the said term of twenty-one years, the governor of our said province of Georgia, and all officers civil and military, within the same, shall from time to time be nominated and constituted, and appointed by us, our heirs and successors. And lastly, we do hereby, for us, our heirs and successors, grant unto the said corporation and their successors, that these our letters patent, or the enrolments or exemplification thereof, shall be in and by all things good, firm, valid, sufficient and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed and adjudged, in all courts and elsewhere in the most favorable and beneficial sense, and for the best advantage of the said corporation and their successors any omission, imperfection, defect, matter or cause, or thing whatsoever to the contrary, in any wise notwithstanding. In witness, we have caused these our letters to be made patent: witness ourself at Westminster, the ninth day of June, in the fifth year of our reign.

By writ of privy-seal.

COOKS.

CONSTITUTION OF GEORGIA—1777.*

Whereas the conduct of the legislature of Great Britain for many years past has been so oppressive on the people of America that of late years they have plainly declared and asserted a right to raise taxes upon the people of America, and to make

* This constitution was framed by a convention which assembled at Savannah October 1, 1776, in accordance with the recommendation of the Continental Congress that the people of the Colonies should form independent State governments. It was unanimously agreed to February 5, 1777.

laws to bind them in all cases whatsoever, without their consent; which conduct, being repugnant to the common rights of mankind, hath obliged the Americans, as freemen, to oppose such oppressive measures, and to assert the rights and privileges they are entitled to by the laws of nature and reason; and accordingly it hath been done by the general consent of all the people of the States of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the counties of New Castle, Kent, and Sussex on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, given by their representatives met together in general Congress, in the city of Philadelphia;

And whereas it hath been recommended by the said Congress, on the fifteenth of May last, to the respective assemblies and conventions of the United States, where no government, sufficient to the exigencies of their affairs, hath been hitherto established, to adopt such government as may, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular and America in general;

And whereas the independence of the United States of America has been also declared, on the fourth day of July, one thousand seven hundred and seventy-six, by the said honorable Congress, and all political connection between them and the Crown of Great Britain is in consequence thereof dissolved:

We, therefore, the representatives of the people, from whom all power originates, and for whose benefit all government is intended, by virtue of the power delegated to us, do ordain and declare, and it is hereby ordained and declared, that the following rules and regulations be adopted for the future government of this State:

ARTICLE I. The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other.

ART. II. The legislature of this State shall be composed of the representatives of the people, as is hereinafter pointed out; and the representatives shall be elected yearly, and every year, on the first Tuesday in December; and the representatives so elected shall meet the first Tuesday in January following, at Savannah, or any other place or places where the house of assembly for the time being shall direct.

On the first day of the meeting of the representatives so chosen, they shall proceed to the choice of a governor, who shall be styled "*honorable*;" and of an executive council, by ballot out of their own body, viz: two from each county, except those counties which are not yet entitled to send ten members. One of each county shall always attend, where the governor resides, by monthly rotation, unless the members of each county agree for a longer or shorter period. This is not intended to exclude either member attending. The remaining number of representatives shall be called the house of assembly; and the majority of the members of the said house shall have power to proceed on business.

ART. III. It shall be an unalterable rule that the house of assembly shall expire and be at an end, yearly and every year, on the day preceding the day of election mentioned in the foregoing rule.

ART. IV. The representation shall be divided in the following manner: ten members from each county, as is hereinafter directed, except the county of Liberty, which contains three parishes, and that shall be allowed fourteen.

The ceded lands north of Ogechee shall be one county, and known by the name of Wilkes.

The parish of Saint Paul shall be another county, and known by the name of Richmond.

The parish of Saint George shall be another county, and known by the name of Burke.

The parish of Saint Matthew, and the upper part of Saint Philip, above Canouchee, shall be another county, and known by the name of Effingham.

The parish of Christ Church, and the lower part of Saint Philip, below Canouchee, shall be another county, and known by the name of Chatham.

The parishes of Saint John, Saint Andrew, and Saint James shall be another county, and known by the name of Liberty.

The parishes of Saint David and Saint Patrick shall be another county, and known by the name of Glynn.

The parishes of Saint Thomas and Saint Mary shall be another county, and known by the name of Camden.

The port and town of Savannah shall be allowed four members to represent their trade.

The port and town of Sunbury shall be allowed two members to represent their trade.

ART. V. The two counties of Glynn and Camden shall have one representative each, and also they, and all other counties that may hereafter be laid out by the house of assembly, shall be under the following regulations, viz: at their first institution each county shall have one member, provided the inhabitants of the said county shall have ten electors; and if thirty, they shall have two; if forty, three; if fifty, four; if eighty, six; if a hundred and upward, ten; at which time two executive councillors shall be chosen from them, as is directed for the other counties. *

ART. VI. The representatives shall be chosen out of the residents in each county, who shall have resided at least twelve months in this State, and three months in the county where they shall be elected; except the freeholders of the counties of Glynn and Camden, who are in a state of alarm, and who shall have the liberty of choosing one member each, as specified in the articles of this constitution, in any other county, until they have residents sufficient to qualify them for more; and they shall be of the Protestant religion, and of the age of twenty-one years, and shall be possessed in their own right of two hundred and fifty acres of land, or some property to the amount of two hundred and fifty pounds.

ART. VII. The house of assembly shall have power to make such laws and regulations as may be conducive to the good order and well-being of the State; provided such laws and regulations be not repugnant to the true intent and meaning of any rule or regulation contained in this constitution.

The house of assembly shall also have power to repeal all laws and ordinances they find injurious to the people; and the house shall choose its own speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies, and shall have power of adjournment to any time or times within the year.

ART. VIII. All laws and ordinances shall be three times read, and each reading shall be on different and separate days, except in cases of great necessity and danger; and all laws and ordinances shall be sent to the executive council after the second reading, for their perusal and advice.

ART. IX. All male white inhabitants, of the age of twenty-one years, and possessed in his own right of ten pounds value, and liable to pay tax in this State, or being of any mechanic trade, and shall have been resident six months in this State, shall have a right to vote at all elections for representatives, or any other officers, herein agreed to be chosen by the people at large; and every person having a right to vote at any election shall vote by ballot personally.

ART. X. No officer whatever shall serve any process, or give any other hinderance to any person entitled to vote, either in going to the place of election, or during the time of the said election, or on their returning home from such election; nor shall any military officer, or soldier, appear at any election in a military character, to the intent that all elections may be free and open.

ART. XI. No person shall be entitled to more than one vote, which shall be given in the county where such person resides, except as before excepted; nor shall any person who holds any title of nobility be entitled to a vote, or be capable of serving as a representative, or hold any post of honor, profit, or trust in this State, whilst such person claims his title of nobility; but if the person shall give up such distinction, in the manner as may be directed by any future legislation, then, and in such case, he shall be entitled to a vote, and represent, as before directed, and enjoy all the other benefits of a free citizen.

ART. XII. Every person absenting himself from an election, and shall neglect to give in his or their ballot at such election, shall be subject to a penalty not exceeding five pounds; the mode of recovery, and also the appropriation thereof, to be pointed out and directed by act of the legislature: *Provided, nevertheless,* That a reasonable excuse shall be admitted.

ART. XIII. The manner of electing representatives shall be by ballot, and shall be taken by two or more justices of the peace in each county, who shall provide a convenient box for receiving the said ballots: and, on closing the poll, the ballots shall be compared in public with the list of votes that have been taken, and the majority immediately declared; a certificate of the same being given to the persons elected, and also a certificate returned to the house of representatives.

ART. XIV. Every person entitled to vote shall take the following oath or affirmation, if required, viz:

"I, A B, do voluntarily and solemnly swear (or affirm, as the case may be) that I do owe true allegiance to this State, and will support the constitution thereof; so help me God."

ART. XV. Any five of the representatives elected, as before directed, being met, shall have power to administer the following oath to each other; and they, or any other member, being so sworn, shall, in the house, administer the oath to all other members that attend, in order to qualify them to take their seats, viz:

"I, A B, do solemnly swear that I will bear true allegiance to the State of Georgia, and will truly perform the trusts reposed in me; and that I will execute the same to the best of my knowledge, for the benefit of this State, and the support of the constitution thereof, and that I have obtained my election without fraud or bribe whatever; so help me God."

ART. XVI. The continental delegates shall be appointed annually by ballot, and shall have a right to sit, debate, and vote in the house of assembly, and be deemed a part thereof, subject, however, to the regulations contained in the twelfth article of the Confederation of the United States.

ART. XVII. No person bearing any post of profit under this State, or any person bearing any military commission under this or any other State or States, except officers of the militia, shall be elected a representative. And if any representative shall be appointed to any place of profit or military commission, which he shall accept, his seat shall immediately become vacant, and he shall be incapable of reelection whilst holding such office.

By this article it is not to be understood that the office of a justice of the peace is a post of profit.

ART. XVIII. No person shall hold more than one office of profit under this State at one and the same time.

ART. XIX. The governor shall, with the advice of the executive council, exercise the executive powers of government, according to the laws of this State and the constitution thereof, save only in the case of pardons and remission of fines, which he shall in no instance grant; but he may reprieve a criminal, or suspend a fine, until the meeting of the assembly, who may determine therein as they shall judge fit.

ART. XX. The governor, with the advice of the executive council, shall have power to call the house of assembly together, upon any emergency, before the time which they stand adjourned to.

ART. XXI. The governor, with the advice of the executive council, shall fill up all intermediate vacancies that shall happen in offices till the next general election; and all commissions, civil and military, shall be issued by the governor, under his hand and the great seal of the State.

ART. XXII. The governor may preside in the executive council at all times, except when they are taking into consideration and perusing the laws and ordinances offered to them by the house of assembly.

ART. XXIII. The governor shall be chosen annually by ballot, and shall not be eligible to the said office for more than one year out of three, nor shall he hold any military commission under any other State or States.

The governor shall reside at such place as the house of assembly for the time being shall appoint.

ART. XXIV. The governor's oath:

"I, A B, elected governor of the State of Georgia, by the representatives thereof, do solemnly promise and swear that I will, during the term of my appointment, to the best of my skill and judgment, execute the said office faithfully and conscien-

tiously, according to law, without favor, affection, or partiality; that I will, to the utmost of my power, support, maintain, and defend the State of Georgia, and the constitution of the same; and use my utmost endeavors to protect the people thereof in the secure enjoyment of all their rights, franchises, and privileges; and that the laws and ordinances of the State be duly observed, and that law and justice in mercy be executed in all judgments. And I do further solemnly promise and swear that I will peaceably and quietly resign the government to which I have been elected at the period to which my continuance in the said office is limited by the constitution. And, lastly, I do also solemnly swear that I have not accepted of the government whereunto I am elected contrary to the articles of this constitution; so help me God."

This oath to be administered to him by the speaker of the assembly.

The same oath to be administered by the speaker to the president of the council.

No person shall be eligible to the office of governor who has not resided three years in this State.

ART. XXV. The executive council shall meet the day after their election, and proceed to the choice of a president out of their own body; they shall have power to appoint their own officers and settle their own rules of proceedings.

The council shall always vote by counties, and not individually.

ART. XXVI. Every councillor, being present, shall have power of entering his protest against any measures in council he has not consented to, provided he does it in three days.

ART. XXVII. During the sitting of the assembly the whole of the executive council shall attend, unless prevented by sickness, or some other urgent necessity; and, in that case, a majority of the council shall make a board to examine the laws and ordinances sent them by the house of assembly; and all laws and ordinances sent to the council shall be returned in five days after, with their remarks thereon.

ART. XXVIII. A committee from the council, sent with any proposed amendments to any law or ordinance, shall deliver their reasons for such proposed amendments, sitting and covered; the whole house at that time, except the speaker, uncovered.

ART. XXIX. The president of the executive council, in the absence or sickness of the governor, shall exercise all the powers of the governor.

ART. XXX. When any affair that requires secrecy shall be laid before the governor and the executive council, it shall be the duty of the governor, and he is hereby obliged, to administer the following oath, viz:

"I, A B, do solemnly swear that any business that shall be at this time communicated to the council I will not, in any manner whatever, either by speaking, writing, or otherwise, reveal the same to any person whatever, until leave given by the council, or when called upon by the house of assembly; and all this I swear without any reservation whatever; so help me God."

And the same oath shall be administered to the secretary and other officers necessary to carry the business into execution.

ART. XXXI. The executive power shall exist till renewed as pointed out by the rules of this constitution.

ART. XXXII. In all transactions between the legislative and executive bodies the same shall be communicated by message, to be delivered from the legislative body to the governor or executive council by a committee, and from the governor to the house of assembly by the secretary of the council, and from the executive council by a committee of the said council.

ART. XXXIII. The governor for the time being shall be captain-general and commander-in-chief over all the militia, and other military and naval forces belonging to this State.

ART. XXXIV. All militia commissions shall specify that the person commissioned shall continue during good behavior.

ART. XXXV. Every county in this State that has, or hereafter may have, two hundred and fifty men, and upwards, liable to bear arms, shall be formed into a battalion; and when they become too numerous for one battalion, they shall be formed into

more, by bill of the legislature; and those counties that have a less number than two hundred and fifty shall be formed into independent companies.

ART. XXXVI. There shall be established in each county a court, to be called a superior court, to be held twice in each year.

On the first Tuesday in March, in the county of Chatham.

The second Tuesday in March, in the county of Effingham.

The third Tuesday in March, in the county of Burke.

The fourth Tuesday in March, in the county of Richmond.

The next Tuesday, in the county of Wilkes.

And Tuesday fortnight, in the county of Liberty.

The next Tuesday, in the county of Glynn.

The next Tuesday, in the county of Camden.

The like courts to commence in October and continue as above.

ART. XXXVII. All causes and matters of dispute, between any parties residing in the same county, to be tried within the county.

ART. XXXVIII. All matters in dispute between contending parties residing in different counties shall be tried in the county where the defendant resides, except in cases of real estate, which shall be tried in the county where such real estate lies.

ART. XXXIX. All matters of breach of the peace, felony, murder, and treason against the State to be tried in the county where the same was committed. All matters of dispute, both civil and criminal, in any county where there is not a sufficient number of inhabitants to form a court, shall be tried in the next adjacent county where a court is held.

ART. XL. All causes, of what nature soever, shall be tried in the supreme court, except as hereafter mentioned; which court shall consist of the chief-justice, and three or more of the justices residing in the county. In case of the absence of the chief-justice, the senior justice on the bench shall act as chief-justice, with the clerk of the county, attorney for the State, sheriff, coroner, constable, and the jurors; and in case of the absence of any of the aforementioned officers, the justices to appoint others in their room *pro tempore*. And if any plaintiff or defendant in civil causes shall be dissatisfied with the determination of the jury, then, and in that case, they shall be at liberty, within three days, to enter an appeal from that verdict, and demand a new trial by a special jury, to be nominated as follows, viz: each party, plaintiff and defendant, shall choose six, six more names shall be taken indifferently out of a box provided for that purpose, the whole eighteen to be summoned, and their names to be put together into the box, and the first twelve that are drawn out, being present, shall be the special jury to try the cause, and from which there shall be no appeal.

ART. XLI. The jury shall be judges of law, as well as of fact, and shall not be allowed to bring in a special verdict; but if all or any of the jury have any doubts concerning points of law, they shall apply to the bench, who shall each of them in rotation give their opinion.

ART. XLII. The jury shall be sworn to bring in a verdict according to law, and the opinion they entertain of the evidence; provided it be not repugnant to the rules and regulations contained in this constitution.

ART. XLIII. The special jury shall be sworn to bring in a verdict according to law, and the opinion they entertain of the evidence; provided it be not repugnant to justice, equity, and conscience, and the rules and regulations contained in this constitution, of which they shall judge.

ART. XLIV. Captures, both by sea and land, to be tried in the county where such shall be carried in; a special court to be called by the chief-justice, or in his absence by the then senior justice in the said county, upon application of the captors or claimants, which cause shall be determined within the space of ten days. The mode of proceeding and appeal shall be the same as in the superior courts, unless, after the second trial, an appeal is made to the Continental Congress; and the distance of time between the first and second trial shall not exceed fourteen days; and all maritime causes to be tried in like manner.

ART. XLV. No grand jury shall consist of less than eighteen, and twelve may find a bill.

ART. XLVI. That the court of conscience be continued as heretofore practiced, and that the jurisdiction thereof be extended to try causes not amounting to more than ten pounds.

ART. XLVII. All executions exceeding five pounds, except in the case of a court-merchant, shall be stayed until the first Monday in March; provided security be given for debt and costs.

ART. XLVIII. All the costs attending any action in the superior court shall not exceed the sum of three pounds, and that no cause be allowed to depend in the superior court longer than two terms.

ART. XLIX. Every officer of the State shall be liable to be called to account by the house of assembly.

ART. L. Every county shall keep the public records belonging to the same, and authenticated copies of the several records now in the possession of this State shall be made out and deposited in that county to which they belong.

ART. LI. Estates shall not be entailed; and when a person dies intestate, his or her estate shall be divided equally among their children; the widow shall have a child's share, or her dower, at her option; all other intestates' estates to be divided according to the act of distribution, made in the reign of Charles the Second, unless otherwise altered by any future act of the legislature.

ART. LII. A register of probates shall be appointed by the legislature in every county, for proving wills and granting letters of administration.

ART. LIII. All civil officers in each county shall be annually elected on the day of the general election, except justices of the peace and registers of probates, who shall be appointed by the house of assembly.

ART. LIV. Schools shall be erected in each county, and supported at the general expense of the State, as the legislature shall hereafter point out.

ART. LV. A court-house and jail shall be erected at the public expense in each county, where the present convention or the future legislature shall point out and direct.

ART. LVI. All persons whatever shall have the free exercise of their religion; provided it be not repugnant to the peace and safety of the State; and shall not, unless by consent, support any teacher or teachers except those of their own profession.

ART. LVII. The great seal of this State shall have the following device: on one side a scroll, whereon shall be engraved, "The Constitution of the State of Georgia;" and the motto, "*Pro bono publico.*" On the other side, an elegant house, and other buildings, fields of corn, and meadows covered with sheep and cattle; a river running through the same, with a ship under full sail, and the motto, "*Deus nobis hæc omnia fecit.*"

ART. LVIII. No person shall be allowed to plead in the courts of law in this State, except those who are authorized so to do by the house of assembly; and if any person so authorized shall be found guilty of malpractice before the house of assembly, they shall have power to suspend them. This is not intended to exclude any person from that inherent privilege of every *freeman*, the liberty to plead his own cause.

ART. LIX. Excessive fines shall not be levied, nor excessive bail demanded.

ART. LX. The principles of the *habeas-corpus* act shall be a part of this constitution.

ART. LXI. Freedom of the press and trial by jury to remain inviolate forever.

ART. LXII. No clergyman of any denomination shall be allowed a seat in the legislature.

ART. LXIII. No alteration shall be made in this constitution without petitions from a majority of the counties, and the petitions from each county to be signed by a majority of voters in each county within this State; at which time the assembly shall order a convention to be called for that purpose, specifying the alterations to be made, according to the petitions preferred to the assembly by the majority of the counties as aforesaid.

Done at Savannah, in convention, the fifth day of February, in the year of our Lord one thousand seven hundred and seventy-seven, and in the first year of the Independence of the United States of America.

CONSTITUTION OF GEORGIA—1789.*

We, the underwritten delegates from the people, in convention met, do declare that the following articles shall form the constitution for the government of this State; and, by virtue of the powers in us vested for that purpose, do hereby ratify and confirm the same.

ARTICLE I.

SECTION 1. The legislative power shall be vested in two separate and distinct branches, to wit, a senate and house of representatives, to be styled "The general assembly."

SEC. 2. The senate shall be elected on the first Monday in October in every third year, until such day of election be altered by law; and shall be composed of one member from each county, chosen by the electors thereof, and shall continue for the term of three years.

SEC. 3. No person shall be a member of the senate who shall not have attained to the age of twenty-eight years, and who shall not have been nine years an inhabitant of the United States, and three years a citizen of this State; and shall be an inhabitant of that county for which he shall be elected, and have resided therein six months immediately preceding his election, and shall be possessed in his own right of two hundred and fifty acres of land, or some property to the amount of two hundred and fifty pounds.

SEC. 4. The senate shall elect, by ballot, a president out of their own body.

SEC. 5. The senate shall have solely the power to try all impeachments.

SEC. 6. The election of members for the house of representatives shall be annual, on the first Monday in October, until such day of election be altered by law, and shall be composed of members from each county, in the following proportions: Camden, two; Glynn, two; Liberty, four; Chatham, five; Effingham, two; Burke, four; Richmond, four; Wilkes, five; Washington, two; Green, two; and Franklin, two.

SEC. 7. No person shall be a member of the house of representatives who shall not have attained to the age of twenty-one years, and have been seven years a citizen of the United States, and two years an inhabitant of this State; and shall be an inhabitant of that county for which he shall be elected, and have resided therein three months immediately preceding his election; and shall be possessed in his own right of two hundred acres of land, or other property to the amount of one hundred and fifty pounds.

SEC. 8. The house of representatives shall choose their speaker and other officers.

SEC. 9. They shall have solely the power to impeach all persons who have been or may be in office.

SEC. 10. No person holding a military commission, or office of profit, under this or the United States, or either of them, (except justices of the peace and officers of the militia,) shall be allowed to take his seat as a member of either branch of the general assembly; nor shall any senator or representative be elected to any office of profit which shall be created during his appointment.

SEC. 11. The meeting of the general assembly shall be annual, on the first Monday in November, until such day of meeting be altered by law.

SEC. 12. One-third of the members of each branch shall have power to proceed to business; but a smaller number may adjourn from day to day, and compel the attendance of their members in such manner as each house may prescribe.

SEC. 13. Each house shall be judges of the elections, returns, and qualifications of its own members, with powers to expel or punish for disorderly behavior.

SEC. 14. No senator or representative shall be liable to be arrested during his attendance on the general assembly, or for a reasonable time in going thereto or returning

* This constitution was framed by a convention which assembled at Augusta, November 4, 1788, and was ratified by a convention chosen for the purpose of ratifying or rejecting it, which met at Augusta, January 4, 1789.

home, except it be for treason, felony, or breach of the peace; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere.

SEC. 15. The members of the senate and house of representatives shall take the following oath or affirmation: "I, A B, do solemnly swear (or affirm, as the case may be) that I have not obtained my election by bribery, or other unlawful means; and that I will give my vote on all questions that may come before me, as a senator, (or representative,) in such manner as, in my judgment, will best promote the good of this State; and that I will bear true faith and allegiance to the same, and to the utmost of my power observe, support, and defend the constitution thereof."

SEC. 16. The general assembly shall have power to make all laws and ordinances which they shall deem necessary and proper for the good of the State, which shall not be repugnant to this constitution.

SEC. 17. They shall have power to alter the boundaries of the present counties, and to lay off new ones, as well out of the counties already laid off, as out of the other territory belonging to the State. When a new county or counties shall be laid off, out of any of the present county or counties, such new county or counties shall have their representation apportioned out of the number of the representatives of the county or counties out of which it or they shall be laid out; and when any new county shall be laid off in the vacant territory belonging to the State, such county shall have a number of representatives, not exceeding three, to be regulated and determined by the general assembly. And no money shall be drawn out of the treasury, or from the public funds of this State, except by appropriations made by law.

SEC. 18. No clergyman of any denomination shall be a member of the general assembly.

ARTICLE II.

SECTION 1. The executive power shall be vested in a governor, who shall hold his office during the term of two years, and shall be elected in the following manner:

SEC. 2. The house of representatives shall, on the second day of their making a house, in the first, and in every second year thereafter, vote by ballot for three persons; and shall make a list containing the names of the persons voted for, and of the number of votes for each person; which list the speaker shall sign in the presence of the house, and deliver it in person to the senate; and the senate shall, on the same day, proceed, by ballot, to elect one of the three persons having the highest number of votes; and the person having a majority of the votes of the senators present shall be the governor.

SEC. 3. No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained to the age of thirty years, and who does not possess five hundred acres of land, in his own right, within this State, and other species of property to the amount of one thousand pounds sterling.

SEC. 4. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of government until such disability be removed, or until the next meeting of the general assembly.

SEC. 5. The governor shall, at stated times, receive for his service a compensation which shall neither be increased nor diminished during the period for which he shall be elected; neither shall he receive, within that period, any other emolument from the United States, or any of them, or from any foreign power. Before he enters on the execution of his office he shall take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will faithfully execute the office of governor of the State of Georgia, and will, to the best of my abilities, preserve, protect, and defend the said State, and cause justice to be executed in mercy therein, according to the constitution and laws of the same."

SEC. 6. He shall be commander-in-chief in and over the State of Georgia, and of the militia thereof.

SEC. 7. He shall have power to grant reprieves for offences against the State,

except in cases of impeachment, and to grant pardons, in all cases after conviction, except for treason or murder, in which cases he may respite the execution, and make a report thereof to the next general assembly, by whom a pardon may be granted.

SEC. 8. He shall issue writs of election to fill up all vacancies that happen in the senate or house of representatives, and shall have power to convene the general assembly on extraordinary occasions, and shall give them, from time to time, information of the state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. In case of a disagreement between the senate and house of representatives, with respect to the time to which the general assembly shall adjourn, he may adjourn them to such time as he may think proper.

SEC. 10. He shall have the revision of all bills passed by both houses, before the same shall become laws; but two-thirds of both houses may pass a law, notwithstanding his dissent, and, if any bill should not be returned by the governor within five days after it hath been presented to him, the same shall be a law, unless the general assembly, by their adjournment, shall prevent its return.

SEC. 11. The great seal of the State shall be deposited in the office of the secretary, and it shall not be affixed to any instrument of writing without it be by order of the governor or general assembly; and the general assembly may direct the great seal to be altered.

ARTICLE III.

SECTION 1. A superior court shall be held in each county twice in every year; in which shall be tried, and brought to final decision, all causes, civil and criminal, except such as may be subject to a Federal court, and such as may, by law, be referred to inferior jurisdiction.

SEC. 2. The general assembly shall point out the mode of correcting errors and appeals, which shall extend so far as to empower the judges to direct a new trial by jury within the county where the action originated, and which shall be final.

SEC. 3. Courts-merchant shall be held as heretofore, subject to such regulations as the general assembly may by law direct.

SEC. 4. All causes shall be tried in the county where the defendant resides except in cases of real estate, which shall be tried in the county where such estate lies, and in criminal cases, which shall be tried in the county where the crime shall be committed.

SEC. 5. The judges of the superior court and attorney-general shall have a competent salary established by law, which shall not be increased nor diminished during their continuance in office, and shall hold their commission during the term of three years.

ARTICLE IV.

SECTION 1. The electors of the members of both branches of the general assembly shall be citizens and inhabitants of this State, and shall have attained to the age of twenty-one years, and have paid tax for the year preceding the election, and shall have resided six months within the county.

SEC. 2. All elections shall be by ballot, and the house of representatives, in all appointments of State officers, shall vote for three persons; and a list of the three persons having the highest number of votes shall be signed by the speaker, and sent to the senate, which shall from such list determine, by a majority of their votes, the officer elected, except militia officers and the secretaries of the governor, who shall be appointed by the governor alone, under such regulations and restrictions as the general assembly may prescribe. The general assembly may vest the appointment of inferior officers in the governor, the courts of justice, or in such other manner as they may by law establish.

SEC. 3. Freedom of the press and trial by jury shall remain inviolate.

SEC. 4. All persons shall be entitled to the benefit of the writ of *habeas corpus*.

SEC. 5. All persons shall have the free exercise of religion, without being obliged to contribute to the support of any religious profession but their own.

SEC. 6. Estates shall not be entailed; and when a person dies intestate, leaving a

wife and children, the wife shall have a child's share, or her dower, at her option; if there be no wife, the estate shall be equally divided among the children and their legal representatives of the first degree. The distribution of all other intestate estates may be regulated by law.

SEC. 7. At the general election for members of assembly, in the year one thousand seven hundred and ninety-four, the electors in each county shall elect three persons to represent them in a convention, for the purpose of taking into consideration the alterations necessary to be made in this constitution, who shall meet at such time and place as the general assembly may appoint; and if two-thirds of the whole number shall meet and concur, they shall proceed to agree on such alterations and amendments as they may think proper: *Provided*, That after two-thirds shall have concurred to proceed to alterations and amendments, a majority shall determine on the particulars of such alterations and amendments.

SEC. 8. This constitution shall take effect, and be in full force, on the first Monday in October next, after the adoption of the same; and the executive shall be authorized to alter the time for the sitting of the superior courts, so that the same may not interfere with the annual elections in the respective counties, or the meeting of the first general assembly.

Done at Augusta, in convention, the sixth day of May, in the year of our Lord one thousand seven hundred and eighty-nine, and in the year of the Sovereignty and Independence of the United States the thirteenth.

WM. GIBBONS, *President*.

D. LONGSTREET, *Secretary*.

AMENDMENTS TO THE CONSTITUTION OF 1789.*

ADOPTED MAY 16, 1795.

ARTICLE I. The senate shall be elected annually on the first Monday in November until such day of election be altered by law; and shall be composed of one member from each county, to be chosen by the electors thereof.

ART. II. All elections to be made by the general assembly, shall be by joint ballot of the senate and house of representatives.

ART. III. The election of members for the house of representatives shall be annual on the first Monday in November; and shall be composed of members from each county in the following proportions: Camden, two; Glynn, two; Liberty, four; McIntosh, two; Bryan, two; Chatham, four; Effingham, two; Scriven, two; Montgomery, two; Burke, three; Richmond, two; Columbia, two; Wilkes, three; Elbert, two; Franklin, two; Oglethorpe, three; Green, three; Hancock, three; Washington, three; Warren, three.

ART. IV. At the general election for members of assembly in the year 1797, the electors of the present counties shall elect three persons to represent them in a convention for the purpose of taking into consideration the further alterations and amendments necessary to be made in the constitution, who shall meet at the town of Louisville the second Tuesday in May thereafter; a majority of the said convention shall have power to proceed to, and agree on, such alterations and amendments as they may think proper.

ART. V. The meeting of the general assembly shall be annual on the second Tuesday in January; a majority of whom shall have power to proceed to business.

ART. VI. That Louisville be the permanent seat of government; and that the governor, secretary of the State, the treasurer, the auditor, and the surveyor-general, remove their offices thereto, as soon as may be convenient, previously to the next meeting of the general assembly.

ART. VII. Article of constituted rights annexed to the constitution as amended.

ART. VIII. All powers not delegated by the constitution as amended, are retained by the people.

* These amendments were framed by a convention which met at Louisville in the spring of 1795 and completed its labors May 16, 1795. The amendments were not submitted to the people, but took effect on the first Monday of the following October.

CONSTITUTION OF GEORGIA—1798.*

The constitution of the State of Georgia, as revised, amended, and compiled by the convention of the State, at Louisville, on the 30th day of May, 1798.

ARTICLE I.

SECTION 1. The legislative, executive, and judiciary departments of government shall be distinct, and each department shall be confided to a separate body of magistracy; and no person or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

SEC. 2. The legislative power shall be vested in two separate and distinct branches, to wit: A senate and house of representatives, to be styled "The general assembly."

SEC. 3. The senate shall be elected annually, on the first Monday in November, until such day of election be altered by law; and shall be composed of one member from each county, to be chosen by the electors thereof.

SEC. 4. No person shall be a senator who shall not have attained to the age of twenty-five years, and have been nine years a citizen of the United States, and three years an inhabitant of this State, and shall have usually resided within the county for which he shall be returned, at least one year immediately preceding his election, (except persons who may have been absent on public business of this State or of the United States,) and is and shall have been possessed, in his own right, of a settled freehold estate of the value of five hundred dollars, or taxable property to the amount of one thousand dollars, within the county, for one year preceding his election, and whose estate shall, on a reasonable estimation, be fully competent to the discharge of his just debts over and above that sum.

SEC. 5. The senate shall elect, by ballot, a president of their own body.

SEC. 6. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold and enjoy any office of honor, trust, or profit within this State; but the party convicted shall, nevertheless, be subject to indictment, trial, judgment, and punishment according to law.

SEC. 7. The house of representatives shall be composed of members from all the counties which now are, or hereafter may be, included within this State, according to their respective numbers of free white persons, and including three-fifths of all the people of color. The actual enumeration shall be made within two years, and within every subsequent term of seven years thereafter, at such time and in such manner as this convention may direct. Each county containing three thousand persons, agreeably to the foregoing plan of enumeration, shall be entitled to two members; seven thousand, to three members; and twelve thousand, to four members; but each county shall have at least one and not more than four members. The representatives shall be chosen annually, on the first Monday in November, until such day of election be altered by law. Until the aforesaid enumeration shall be made, the several counties shall be entitled to the following number of representatives, respectively: Camden, two; Glynn, two; Liberty, three; M'Intosh, two; Bryan, one; Chatham, four; Effingham, two; Scriven, two; Montgomery, two; Burke, three; Bullock, one; Jefferson, three; Lincoln, two; Elbert, three; Jackson, two; Richmond, three; Wilkes, four; Columbia, three; Warren, three; Washington, three; Hancock, four; Greene, three; Oglethorpe, three; and Franklin, two.

SEC. 8. No person shall be a representative who shall not have attained to the age of twenty-one years, and have been seven years a citizen of the United States, three

* This constitution was framed by a convention which met at Louisville May 8, 1798. It was signed May 30, 1798, and went into effect on the first Monday of October of that year, without having been submitted to the people.

years an inhabitant of this State, and have usually resided in the county in which he shall be chosen one year immediately preceding his election, (unless he shall have been absent on public business of this State or of the United States,) and shall be possessed in his own right of a settled freehold estate of the value of two hundred and fifty dollars, or of taxable property to the amount of five hundred dollars within the county, for one year preceding his election, and whose estate shall, on a reasonable estimation, be competent to the discharge of his just debts, over and above that sum.

SEC. 9. The house of representatives shall choose their speaker and other officers.

SEC. 10. They shall have solely the power to impeach all persons who have been or may be in office.

SEC. 11. No person holding any military commission or other appointment, having any emolument or compensation annexed thereto, under this State or the United States, or either of them, except justices of the inferior court, justices of the peace, and officers of the militia, nor any person who has had charge of public moneys belonging to the State, unaccounted for and unpaid, or who has not paid all legal taxes or contributions to the government required of him, shall have a seat in either branch of the general assembly; nor shall any senator or representative be elected to any office or appointment by the legislature, having any emoluments or compensation annexed thereto, during the time for which he shall have been elected, with the above exception, unless he shall decline accepting his seat, by notice to the executive within twenty days after he shall have been elected; nor shall any member, after having taken his seat, be eligible to any of the aforesaid offices or appointments during the time for which he shall have been elected.

SEC. 12. The meeting of the general assembly shall be annually, on the second Tuesday in January, until such day of meeting be altered by law; a majority of each branch shall be authorized to proceed to business; but a smaller number may adjourn from day to day, and compel the attendance of their members in such manner as each house may prescribe.

SEC. 13. Each house shall be the judges of the elections, returns, and qualifications of its own members; with powers to expel or punish, by censuring, fining, and imprisoning, or either, for disorderly behavior; and may expel any person convicted of any felonious or infamous offence; each house may punish by imprisonment, during session, any person, not a member, who shall be guilty of disrespect by any disorderly or contemptuous behavior in its presence, or who, during session, shall threaten harm to the body or estate of any member, for anything said or done in either house, or who shall assault any of them therefor; or who shall assault or arrest any witness in going to or returning therefrom, or who shall rescue any person arrested by order of either house.

SEC. 14. No senator or representative shall be liable to be arrested during his attendance on the general assembly, or for ten days previous to its sitting, or for ten days after the rising thereof, except for treason, felony, or breach of the peace; nor shall any member be liable to answer for anything spoken in debate in either house, in any court or place elsewhere; but shall nevertheless be bound to answer for perjury, bribery, or corruption.

SEC. 15. Each house shall keep a journal of its proceedings, and publish them immediately after their adjournment; and the yeas and nays of the members on any question shall, at the desire of any two members, be entered on the journals.

SEC. 16. All bills for raising revenue or appropriating moneys shall originate in the house of representatives, but the senate shall propose or concur with amendments, as in other bills.

SEC. 17. Every bill shall be read three times and on three separate days, in each branch of the general assembly, before it shall pass, unless in cases of actual invasion or insurrection; nor shall any law or ordinance pass, containing any matter different from what is expressed in the title thereof; and all acts shall be signed by the president in the senate, and speaker in the house of representatives. No bill or ordinance which shall have been rejected by either house shall be brought in again during the session, under the same or any other title, without the consent of two-thirds of each branch.

SEC. 18. Each senator and representative, before he be permitted to take his seat, shall take an oath, or make affirmation, that he hath not practised any unlawful means, either directly or indirectly, to procure his election; and every person shall be disqualified from serving as a senator or representative, for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat, or canvassed for such election; and every candidate employing like means, and not elected, shall, on conviction, be ineligible to hold a seat in either house, or to hold any office of honor or profit for the term of one year, and to such other disabilities or penalties as may be prescribed by law.

SEC. 19. Every member of the senate or house of representatives shall, before he takes his seat, take the following oath or affirmation, to wit: "I, A B, do solemnly swear (or affirm, as the case may be) that I have not obtained my election by bribery, treats, canvassing, or other undue or unlawful means, used by myself, or others by my desire or approbation, for that purpose; that I consider myself constitutionally qualified as a senator, (or representative,) and that, on all questions and measures which may come before me, I will give my vote and so conduct myself as may, in my judgment, appear most conducive to the interest and prosperity of this State; and that I will bear true faith and allegiance to the same; and to the utmost of my power and ability observe, conform to, support, and defend the constitution thereof."

SEC. 20. No person who hath been or may be convicted of felony before any court of this State, or any of the United States, shall be eligible to any office or appointment of honor, profit, or trust within this State.

SEC. 21. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that at which the two branches shall be sitting; and in case of disagreement between the senate and house of representatives, with respect to their adjournment, the governor may adjourn them.

SEC. 22. The general assembly shall have power to make all laws and ordinances which they shall deem necessary and proper for the good of the State, which shall not be repugnant to this constitution.

SEC. 23. They shall have power to alter the boundaries of the present counties, and to lay off new ones, as well out of the counties already laid off as out of the other territory belonging to the State; but the property of the soil, in a free government, being one of the essential rights of a free people, it is necessary, in order to avoid disputes, that the limits of this State should be ascertained with precision and exactness; and this convention, composed of the immediate representatives of the people, chosen by them to assert their rights, to revise the powers given by them to the government, and from whose will all ruling authority of right flows, doth assert and declare the boundaries of this State shall be as follows, that is to say: The limits, boundaries, jurisdictions, and authority of the State of Georgia do, and did, and of right ought to, extend from the sea or mouth of the river Savannah, along the northern branch or stream thereof, to the fork or confluence of the rivers now called Tugalo and Keowee, and from thence along the most northern branch or stream of the said river Tugalo, till it intersect the northern boundary-line of South Carolina, if the said branch or stream of Tugalo extends so far north, reserving all the islands in the said rivers Savannah and Tugalo to Georgia; but, if the head spring or source of any branch or stream of the said river Tugalo does not extend to the north boundary-line of South Carolina, then a west line to the Mississippi, to be drawn from the head spring or source of the said branch or stream of Tugalo River, which extends to the highest northern latitude; thence, down the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude; south, by a line drawn due east from the termination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle of the river Apalachicola, or Chatahoochee; thence, along the middle thereof, to its junction with Flint River; thence straight to the head of Saint Mary's River; and thence, along the middle of Saint Mary's River, to the Atlantic Ocean, and from thence to the mouth or inlet of Savannah River, the place of beginning; including and comprehending all the lands and waters within the said limits, boundaries, and jurisdictional rights; and also all

the islands within twenty leagues of the sea-coast. And this convention doth further declare and assert that all the territory without the present temporary line, and within the limits aforesaid, is now, of right, the property of the free citizens of this State, and held by them in sovereignty, inalienable but by their consent: *Provided, nevertheless,* That nothing herein contained shall be construed so as to prevent a sale to, or contract with, the United States, by the legislature of this State, of and for all or any part of the western territory of this State lying westward of the river Chatahoochee, on such terms as may be beneficial to both parties; and may procure an extension of settlement and extinguishment of Indian claims in and to the vacant territory of this State to the east and north of the said river Chatahoochee, to which territory such power of contract or sale, by the legislature, shall not extend: *And provided also,* The legislature may give its consent to the establishment of one or more governments westward thereof; but monopolies of land by individuals being contrary to the spirit of our free government, no sale of territory of this State, or any part thereof, shall take place to individuals or private companies, unless a county or counties shall have been first laid off, including such territory, and the Indian rights shall have been extinguished thereto.

SEC. 24. The foregoing section of this article having declared the common rights of the free citizens of this State in and to all the territory without the present temporary boundary-line, and within the limits of this State thereby defined, by which the contemplated purchases of certain companies of a considerable portion thereof are become constitutionally void, and justice and good faith require that the State should not detain a consideration for a contract which has failed, the legislature, at their next session, shall make provision by law for returning to any person or persons who has or have *bona fide* deposited moneys for such purposes in the treasury of this State: *Provided,* That the same shall not have been drawn therefrom in terms of the act passed the thirteenth day of February, one thousand seven hundred and ninety-six, commonly called the rescinding act, or the appropriation laws of the years one thousand seven hundred and ninety-six and one thousand seven hundred and ninety-seven; nor shall the moneys paid for such purchases ever be deemed a part of the funds of this State, or be liable to appropriation as such; but until such moneys be drawn from the treasury, they shall be considered altogether at the risk of the persons who have deposited the same. No money shall be drawn out of the treasury or from the public funds of this State, except by appropriation made by law; and a regular statement and account of the receipts and expenditures of all public moneys shall be published from time to time. No vote, resolution, law, or order shall pass the general assembly granting a donation or gratuity in favor of any person whatever but by the concurrence of two-thirds of the general assembly.

SEC. 25. It shall be the duty of the justices of the inferior court, or any three of them, in each county respectively, within sixty days after the adjournment of this convention, to appoint one or more fit persons in each county, not exceeding one for each battalion district, whose duty it shall be to take a full and accurate census or enumeration of all free white persons and people of color residing therein, distinguishing, in separate columns, the free white persons from persons of color, and return the same to the clerks of the superior courts of the several counties, certified under their hands, on or before the first day of December next; the persons so appointed being first severally sworn before the said justices, or either of them, duly and faithfully to perform the trust reposed in them; and it shall be the duty of the said clerks to transmit all such returns, under seal, directed to the speaker of the house of representatives, at the first session of the legislature thereafter. And it shall be the duty of the general assembly, at their said first session, to apportion the members of the house of representatives among the several counties, agreeably to the plans prescribed by this constitution, and to provide an adequate compensation for the taking of the said census. Every person whose usual place of abode shall be in any family on the first Monday in July next shall be returned as of such family; and every person occasionally absent at the time of taking the enumeration, as belonging to that place in which he usually resides. The general assembly shall, by law, direct the manner of taking such census or enumeration, within every subsequent term of seven years, in conformity to this

constitution. And it is declared to be the duty of all officers, civil and military, throughout the State, to be aiding and assisting in the true and faithful execution thereof. In case the justices of the inferior courts should fail to make such appointments, or if there should not be a sufficient number of such justices in any county, then the justices of the peace, or any three of them, shall have and exercise like powers and authority respecting the said census; and if the census or enumeration of any county shall not be so taken and returned, then, and in that case, the general assembly shall apportion the representation of such county according to the best evidence in their power, relative to its population.

ARTICLE II.

SECTION 1. The executive power shall be vested in a governor, who shall hold his office during the term of two years, and until such time as a successor shall be chosen and qualified. He shall have a competent salary, established by law, which shall not be increased or diminished during the period for which he shall have been elected; neither shall he receive, within that period, any other emolument from the United States, or either of them, or from any foreign power.

SEC. 2. The governor shall be elected by the general assembly, at their second annual session after the rising of this convention, and at every second annual session thereafter, on the second day after the two houses shall be organized and competent to proceed to business.

SEC. 3. No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained to the age of thirty years, and who does not possess five hundred acres of land, in his own right, within this State, and other property to the amount of four thousand dollars, and whose estate shall not, on a reasonable estimation, be competent to the discharge of his debts, over and above that sum.

SEC. 4. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of government until such disability be removed, or until the next meeting of the general assembly.

SEC. 5. The governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will faithfully execute the office of governor of the State of Georgia; and will, to the best of my abilities, preserve, protect, and defend the said State, and cause justice to be executed in mercy therein, according to the constitution and laws thereof."

SEC. 6. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

SEC. 7. He shall have power to grant reprieves for offences against the State, except in cases of impeachment, and to grant pardons or to remit any part of a sentence, in all cases after conviction, except for treason or murder, in which cases he may respite the execution, and make report thereof to the next general assembly, by whom a pardon may be granted.

SEC. 8. He shall issue writs of election to fill up all vacancies that happen in the senate or house of representatives; and shall have power to convene the general assembly on extraordinary occasions; and shall give them, from time to time, information of the state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. When any office shall become vacant by death, resignation, or otherwise, the governor shall have the power to fill such vacancy; and persons so appointed shall continue in office until a successor is appointed, agreeable to the mode pointed out by this constitution or by the legislature.

SEC. 10. He shall have the revision of all bills passed by both houses before the same shall become laws; but two-thirds of both houses may pass a law notwithstanding his dissent; and if any bill should not be returned by the governor within five days after it hath been presented to him, the same shall be a law, unless the general assembly, by their adjournment, shall prevent its return.

SEC. 11. Every vote, resolution, or order, to which the concurrence of both houses

may be necessary, except on a question of adjournment, shall be presented to the governor; and, before it shall take effect, be approved by him; or, being disapproved, may be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 12. There shall be a secretary of the State, a treasurer, and a surveyor-general, appointed in the same manner and at the same session of the legislature, and they shall hold their offices for the like period as the governor, and shall have a competent salary, including such emoluments as may be established by law, which shall not be increased or diminished during the period for which they shall have been elected.

SEC. 13. The great seal of the State shall be deposited in the office of the secretary of state, and shall not be affixed to any instrument of writing but by order of the governor or general assembly; and the general assembly shall, at their first session after the rising of this convention, cause the great seal to be altered by law.

SEC. 14. The governor shall have power to appoint his own secretaries.

ARTICLE III.

SECTION 1. The judicial powers of this State shall be vested in a superior court, and in such inferior jurisdictions as the legislature shall, from time to time, ordain and establish. The judges of the superior court shall be elected for the term of three years, removable by the governor, on the address of two-thirds of both houses for that purpose, or by impeachment and conviction thereon. The superior court shall have exclusive and final jurisdiction in all criminal cases which shall be tried in the county wherein the crime was committed, and in all cases respecting titles to land, which shall be tried in the county where the land lies; and shall have power to correct errors in inferior judicatories by writs of *certiorari*, as well as errors in the superior courts, and to order new trials on proper and legal grounds: *Provided*, That such new trials shall be determined, and such errors corrected, in the superior court of the county in which such action originated. And the said court shall also have appellate jurisdiction in such other cases as the legislature may by law direct, which shall in no case tend to remove the cause from the county in which the action originated; and the judges thereof, in all cases of application for new trials, or correction of errors, shall enter their opinions on the minutes of the court. The inferior courts shall have cognizance of all other civil cases, which shall be tried in the county wherein the defendant resides, except in cases of joint obligors, residing in different counties, which may be commenced in either county, and a copy of the petition and process, served on the party or parties residing out of the county in which the suit may be commenced, shall be deemed sufficient service, under such rules and regulations as the legislature may direct; but the legislature may, by law, to which two-thirds of each branch shall concur, give concurrent jurisdiction to the superior courts. The superior and inferior courts shall sit in each county twice in every year, at such stated times as the legislature shall appoint.

SEC. 2. The judges shall have salaries adequate to their services, established by law, which shall not be increased or diminished during their continuance in office; but shall not receive any other perquisites or emoluments whatever, from parties or others, on account of any duty required of them.

SEC. 3. There shall be a State's attorney and solicitors appointed by the legislature, and commissioned by the governor, who shall hold their offices for the term of three years, unless removed by sentence on impeachment, or by the governor on the address of two-thirds of each branch of the general assembly. They shall have salaries adequate to their services established by law, which shall not be increased or diminished during their continuance in office.

SEC. 4. Justices of the inferior courts shall be appointed by the general assembly, and be commissioned by the governor, and shall hold their commissions during good behavior, or as long as they respectively reside in the county for which they shall be appointed, unless removed by sentence on impeachment, or by the governor on the address of two-thirds of each branch of the general assembly. They may be compensated for their services in such manner as the legislature may by law direct.

SEC. 5. The justices of the peace shall be nominated by the inferior courts of the several counties, and commissioned by the governor; and there shall be two justices of the peace in each captain's district, either or both of whom shall have power to try all cases of a civil nature within their district, where the debt or litigated demand does not exceed thirty dollars, in such manner as the legislature may by law direct. They shall hold their appointments during good behavior, or until they shall be removed by conviction on indictment in the superior court, for malpractice in office, or for any felonious or infamous crime, or by the governor on the address of two-thirds of each branch of the legislature.

SEC. 6. The powers of a court of ordinary, or register of probates, shall be invested in the inferior courts of each county, from whose decision there may be an appeal to the superior court, under such restrictions and regulations as the general assembly may by law direct; but the inferior court shall have power to vest the care of the records, and other proceedings therein, in the clerk, or such other person as they may appoint, and any one or more justices of the said court, with such clerk or other person, may issue citations and grant temporary letters, in time of vacation, to hold until the next meeting of the said court; and such clerk or other person may grant marriage-licenses.

SEC. 7. The judges of the superior courts, or any one of them, shall have power to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs which may be necessary for carrying their powers fully into effect.

SEC. 8. Within five years after the adoption of this constitution, the body of our laws, civil and criminal, shall be revised, digested, and arranged under proper heads, and promulgated in such manner as the legislature may direct; and no person shall be debarred from advocating or defending his cause before any court or tribunal, either by himself or counsel, or both.

SEC. 9. Divorces shall not be granted by the legislature until the parties shall have had a fair trial before the superior court, and a verdict shall have been obtained authorizing a divorce upon legal principles. And in such cases two-thirds of each branch of the legislature may pass acts of divorce accordingly.

SEC. 10. The clerks of the superior and inferior courts shall be appointed in such manner as the legislature may by law direct; shall be commissioned by the governor, and shall continue in office during good behavior.

SEC. 11. Sheriffs shall be appointed in such manner as the general assembly may by law direct, and shall hold their appointments for the term of two years, unless sooner removed by sentence on impeachment, or by the governor on the address of two-thirds of the justices of the inferior court and of the peace in the county; but no person shall be twice elected sheriff within any term of four years; and no county officer after the next election shall be chosen at the time of electing a senator or representative.

ARTICLE IV.

SECTION 1. The electors of members of the general assembly shall be citizens and inhabitants of this State, and shall have attained the age of twenty-one years, and have paid all taxes which may have been required of them, and which they may have had an opportunity of paying, agreeably to law, for the year preceding the election, and shall have resided six months within the county: *Provided*, That in case of an invasion, and the inhabitants shall be driven from any county, so as to prevent an election therein, such refugee inhabitants, being a majority of the voters of such county, may meet under the direction of any three justices of the peace thereof, in the nearest county not in a state of alarm, and proceed to an election, without having paid such tax so required of electors; and the persons elected thereat shall be entitled to their seats.

SEC. 2. All elections by the general assembly shall be by joint ballot of both branches of the legislature; and when the senate and house of representatives unite for the purpose of electing, they shall meet in the representative chamber, and the president of the senate shall in such cases preside, receive the ballots, and declare the person or persons elected. In all elections by the people the electors shall vote *viva voce* until the legislature shall otherwise direct.

SEC. 3. The general officers of the militia shall be elected by the general assembly, and shall be commissioned by the governor. All other officers of the militia shall be elected in such manner as the legislature may direct, and shall be commissioned by the governor; and all militia officers now in commission, and those which may be hereafter commissioned, shall hold their commissions during their usual residence within the division, brigade, regiment, battalion, or company to which they belong, unless removed by sentence of a court-martial, or by the governor, on the address of two-thirds of each branch of the general assembly.

SEC. 4. All persons appointed by the legislature to fill vacancies shall continue in office only so long as to complete the time for which their predecessors were appointed.

SEC. 5. Freedom of the press, and trial by jury, as heretofore used in this State, shall remain inviolate; and no *ex post facto* law shall be passed.

SEC. 6. No person who heretofore hath been, or hereafter may be, a collector, or holder of public moneys, shall be eligible to any office in this State until such person shall have accounted for and paid into the treasury all sums for which he may be accountable or liable.

SEC. 7. The person of a debtor, where there is not a strong presumption of fraud, shall not be detained in prison after delivering up, *bona fide*, all his estate, real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law.

SEC. 8. Convictions on impeachments which have heretofore taken place are hereby released, and persons lying under such convictions restored to citizenship.

SEC. 9. The writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion the public safety may require it.

SEC. 10. No person within this State shall, upon any pretence, be deprived of the inestimable privilege of worshipping God in a manner agreeable to his own conscience, nor be compelled to attend any place of worship contrary to his own faith and judgment; nor shall he ever be obliged to pay tithes, taxes, or any other rate, for the building or repairing any place of worship, or for the maintenance of any minister or ministry, contrary to what he believes to be right, or hath voluntarily engaged to do. No one religious society shall ever be established in this State, in preference to another; nor shall any person be denied the enjoyment of any civil right merely on account of his religious principles.

SEC. 11. There shall be no future importation of slaves into this State, from Africa or any foreign place, after the first day of October next. The legislature shall have no power to pass laws for the emancipation of slaves without the consent of each of their respective owners, previous to such emancipation. They shall have no power to prevent emigrants from either of the United States to this State from bringing with them such persons as may be deemed slaves by the laws of any one of the United States.

SEC. 12. Any person who shall maliciously dismember or deprive a slave of life shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof, except in case of insurrection by such slave, and unless such death should happen by accident in giving such slave moderate correction.

SEC. 13. The arts and sciences shall be promoted, in one or more seminaries of learning; and the legislature shall, as soon as conveniently may be, give such further donations and privileges to those already established as may be necessary to secure the objects of their institution; and it shall be the duty of the general assembly, at their next session, to provide effectual measures for the improvement and permanent security of the funds and endowments of such institutions.

SEC. 14. All civil officers shall continue in the exercise of the duties of their several offices during the periods for which they were appointed, or until they shall be superseded by appointments made in conformity to this constitution; and all laws now in force shall continue to operate, so far as they are compatible with this constitution, until repealed; and it shall be the duty of the general assembly to pass all necessary laws and regulations for carrying this constitution into full effect.

SEC. 15. No part of this constitution shall be altered, unless a bill for that purpose, specifying the alterations intended to be made, shall have been read three times in the house of representatives, and three times in the senate, on three several days in each house, and agreed to by two-thirds of each house respectively; and when any such bill shall be passed in manner aforesaid, the same shall be published at least six months previous to the next ensuing annual election for members of the general assembly; and if such alterations, or any of them, so proposed, shall be agreed to in their first session thereafter, by two-thirds of each branch of the general assembly, after the same shall have been read three times, on three separate days, in each respective house, then, and not otherwise, the same shall become a part of this constitution.

We, the underwritten delegates of the people of the State of Georgia, chosen and authorized by them to revise, alter, or amend the powers and principles of their government, do declare, ordain, and ratify the several articles and sections contained in the six pages hereunto prefixed, as the constitution of this State; and the same shall be in operation from the date hereof.

In testimony whereof we, and each of us, respectively, have hereunto set our hands, at Louisville, the seat of government, this thirtieth day of May, in the year of our Lord one thousand seven hundred and ninety-eight, and in the twenty-second year of the Independence of the United States of America; and have caused the great seal of the State to be affixed thereto.

Article 4, section 11, and the first line, the following words being interlined, to wit, "after the first day of October next."

JARED IRWIN, *President*.

JAMES M. SIMMONS, *Secretary*.

AMENDMENTS TO THE CONSTITUTION OF 1798.*

RATIFIED DECEMBER 16, 1808.

ART. III. SEC. 10. *So altered and amended as to read:* That the clerks of the superior and inferior courts shall be elected on the same day as pointed out by law for the election of other county officers.

RATIFIED 1812.†

ART. III. SEC. 4. *So altered and amended as to read:* The justices of the inferior courts shall be elected on the third Tuesday in October, eighteen hundred and thirteen, and on the third Tuesday in October in every fourth year thereafter, by the electors entitled to vote for members of the general assembly, which election shall be held and conducted in the same manner as pointed out by law for the elections of clerks and sheriffs; and the persons so elected shall be commissioned by the governor, and continue in office for the term of four years, unless removed by impeachment for malpractice in office, or by the governor, on the address of two-thirds of both branches of the general assembly. They may be compensated for their services in such manner as the legislature may by law direct; and there shall be five justices for each county, who shall hold their offices until their successors are elected and qualified; and when any vacancy shall happen by death, resignation, or otherwise, of any justice of the inferior court, it shall be the duty of two or more justices of the inferior court, or justices of the peace, to give at least twenty days' notice by advertisement, at three of the most public places in the county, previous to the election, to fill such vacancy; which election shall be held in the same manner as is by this section before expressed.

ART. III. SEC. 5. *So altered and amended as to read:* There shall be two justices of the peace in each captain's district, in the several counties of this State, either or both

* These amendments were successively passed by the legislature, and adopted by the legislature of the following year, as prescribed by the constitution, without ratification by the people.

† Changed by the amendment of 1819.

of whom shall have power to try all cases of a civil nature within their district, where the debt or liquidated demand does not exceed thirty dollars, in such manner as the legislature may by law direct; they shall be elected on the first Saturday in January, eighteen hundred and thirteen, and on the first Saturday in January in every fourth year thereafter, by the citizens of the district to which they respectively belong, entitled to vote for members of the general assembly; which election shall be superintended by three freeholders of the district, whose duty it shall be to take the following oath, to be administered by the captain or commanding officer of said district, to wit: "I, A B, do solemnly swear that I will, to the best of my abilities, superintend the election of justices of the peace for this district; so help me God;" and they shall transmit a return of said election, within twenty days, to his excellency the governor, who is hereby authorized to commission the persons so elected accordingly; and they shall hold their appointments during the term of four years, and until their successors are elected and qualified, unless they shall be removed by conviction on indictment in the superior court, for malpractice in office, or for any felonious or infamous crime, or by the governor on the address of two-thirds of each branch of the legislature. And when any vacancy shall happen by death, resignation, or otherwise, of any justice of the peace, between the time of such election and the expiration of the time for which such justice or justices were elected, it shall be the duty of two of the justices of the peace, in any of the adjoining districts, where such vacancy or vacancies may happen, to advertise in three of the most public places in the district, where such vacancy or vacancies may happen, the time of holding an election for the purpose of filling such vacancy or vacancies, and give at least fifteen days' notice of the time and place where such election shall be held, which shall be in the district where such vacancy or vacancies shall have happened; and it shall be the duty of the said justices to superintend such election, and certify the same, under their hands, to his excellency the governor, who shall, within ten days after receiving the same, commission the person having the highest number of votes, provided the same is not contested.

RATIFIED DECEMBER 15, 1818.

ART. II. SEC. 4. *So amended and altered as to read:* In case of the death, resignation, or disability of the governor, the president of the senate, or the last acting president of the senate, shall exercise the executive powers of the government until such disability be removed, in the election and qualification of a governor by the general assembly; and in case of the death, resignation, or disability of the president of the senate, or of the last acting president of the senate, the speaker of the house of representatives, or the acting speaker of the house of representatives, shall exercise the executive powers of the government, until such disability be removed in the election and qualification of a governor by the general assembly.

RATIFIED DECEMBER 18, 1818.*

ART. III. SECTION 1. *So altered and amended as to read:* The judicial powers of this State shall be vested in a superior, inferior, and justices' courts, and such other courts as the legislature shall from time to time ordain and establish. The judges of the superior courts shall be elected for the term of three years, and shall continue in office until their successors shall be elected and qualified; removable by the governor, on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The superior courts shall have exclusive and final jurisdiction in all criminal cases, (except as relates to people of color, and fines for neglect of duty, and for contempt of court, for violations against road-laws, and for obstructing water-courses, which shall be vested in such judicature or tribunal as shall be or may have been pointed out by law; and except in all other minor offences, committed by free white persons, and which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; in all such cases corporation courts, such as now exist, or may hereafter be constituted,

* Changed by the amendment of 1835.

in any incorporated city, being a sea-port town and port of entry, may be vested with jurisdiction, under such rules and regulations as the legislature may hereafter by law direct;) which shall be tried in the county where the crime was committed; and in all cases respecting titles to lands, which shall be tried in the county where the land lies; and also concurrent jurisdiction in all other civil cases; and shall have power to correct errors in inferior judicatories by writ of *certiorari*, as well as errors in the superior courts, and order new trials on proper and legal grounds: *Provided*, That such new trials shall be determined, and such errors corrected, in the superior court of the county in which such action originated; and the said court shall have appellate jurisdiction in such other cases as are or may be pointed out by law, which shall in no case tend to move the cause from the county in which the action originated; and the judges thereof, in all cases of application for new trials or correction of errors, shall enter their opinion on the minutes of the court. The inferior courts shall also have concurrent jurisdiction in all civil cases, (except in cases respecting the titles to lands,) which shall be tried in the county where the defendant resides; and in case of joint obligors and joint promissors, residing in different counties, the same may be brought in either county, and a copy of the petition and process served on the party residing out of the county in which the suit may be commenced, shall be deemed sufficient service, under such rules and regulations as the legislature have or may direct. The superior and inferior courts shall sit in each county twice in every year, at such stated times as have or may be appointed by the legislature.

RATIFIED NOVEMBER 23, 1819.†

ART. III. SEC. 4. *So altered and amended as to read*: The justices of the inferior court shall be elected by the persons entitled to vote for members of the legislature, in such manner as the legislature may by law direct.

ART. III. SEC. 5. *So altered and amended as to read*: The justices of the peace throughout this State shall be elected by the persons residing in their respective districts, entitled to vote for members of the general assembly, under such rules and regulations as the legislature may by law direct.

RATIFIED NOVEMBER 17, 1824.

ART. II. SEC. 2. *So altered and amended as to read*: The governor shall be elected by the persons qualified to vote for members of the general assembly, on the first Monday in October, in the year of our Lord one thousand eight hundred and twenty-five; and on the first Monday in October in every second year thereafter, until such time be altered by law; which election shall be held at the place of holding general elections, in the several counties of this State, in the same manner as is prescribed for the election of members of the general assembly. The returns for every election of governor shall be sealed up by the presiding justices, separately from other returns, and directed to the president of the senate and the speaker of the house of representatives, and transmitted to his excellency the governor, or the person exercising the duties of governor for the time being, who shall, without opening the said returns, cause the same to be laid before the senate, on the day after the two houses shall have been organized, and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative chamber, and the president of the senate, and the speaker of the house of representatives, shall open and publish the returns in presence of the general assembly; and the person having the majority of the whole number of votes given in shall be declared duly elected governor of this State. But if no person have such majority, then from the persons having the two highest number of votes who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall elect immediately a governor by joint ballot; and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

† This amendment was adopted in the place of a previous amendment of the same sections, in 1812.

RATIFIED 1833.

ART. III. SEC. 9. *So altered and amended as to read:* Divorces shall be final and conclusive when the parties shall have obtained the concurrent verdicts of two special juries, authorizing a divorce upon legal principles.

RATIFIED DECEMBER, 1835.

ARTICLE I. SEC. 4. *So altered and amended as to read:* No person shall be a senator who shall not have attained to the age of twenty-five years, and have been nine years a citizen of the United States, and three years an inhabitant of this State, and shall have usually resided within the county for which he shall be returned at least one year immediately preceding his election, except persons who may have been absent on lawful business of this State or of the United States.

ARTICLE I. SEC. 8. *So altered and amended as to read:* No person shall be a representative who shall not have attained to the age of twenty-one years, and have been a citizen of the United States seven years, and three years an inhabitant of this State, and have usually resided in the county in which he shall be chosen one year immediately preceding his election, unless he shall have been absent on the public business of this State or of the United States.

RATIFIED 1835.*

ART. III. SECTION 1. *So altered and amended as to read:* The judicial powers of this State shall be vested in a supreme court for the correction of errors; a superior, inferior, and justices' courts, and in such other courts as the legislature shall, from time to time, ordain and establish. The supreme court shall consist of three judges, who shall be elected by the legislature for such term of years as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified, removable by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The said court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors in law and equity from the superior courts of the several circuits, and shall sit at least once a year, at a time to be prescribed by law, in each of five judicial districts, to be hereafter laid off and designated by the legislature for that purpose, at the most central point in such judicial district, or at such other point in each district as shall by the general assembly be ordained, for the trial and determination of writs of error from the several superior courts included in such judicial districts. And the said court shall at each session in each district dispose of and finally determine each and every case on the docket of such court at the first term after such writ of error brought; and in case the plaintiff in error in any such case shall not be prepared, at such first term of such court, after error brought to prosecute the same, unless precluded by some providential cause from such prosecution, it shall be stricken from the docket, and the judgment below shall stand affirmed. The judges of the superior court shall be elected for the term of four years, and shall continue in office until their successors shall be elected and qualified, removable by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The superior court shall have exclusive jurisdiction in all criminal cases, (except as relates to people of color, and fines for neglect of duty and for contempt of court; for violations against road-laws, and for obstructing water-courses, which shall be vested in such judicature or tribunal as shall be or may have been pointed out by law; and except in all other minor offences committed by free white persons, and which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; in all such cases corporation courts, such as now exist, or may hereafter be constituted, in any incorporated city, being a sea-port town and a port of entry, may be vested with jurisdiction, under such rules and regulations as the legislature may hereafter by law direct,) which shall be tried in

* This amendment was adopted in the place of a previous amendment of the same section in 1818.

the county where the crime was committed; and in all cases respecting titles to land, which shall be tried in the county where the land lies; and also concurrent jurisdiction in all other civil cases, and shall have power to correct errors in inferior judicatories, by writ of *certiorari*, and to grant new trials in said superior courts on proper and legal grounds; and in all cases where a new trial shall be so allowed, the judge allowing the same shall enter on the minutes of said court his reasons for the same; and the said superior courts shall have appellate jurisdiction in such other cases as may be pointed out by law, in cases arising in inferior judicatories, which shall in no case tend to remove the cause from the county in which the action originated.

RATIFIED 1840.

ARTICLE I. Whereas a part of the third section of the first article of the constitution is in the following words, viz: "The senate shall be elected annually;" and a part of the seventh section of the first article is in the following words: "The representatives shall be chosen annually;" and a part of the twelfth section of the first article is in the following words: "The meeting of the general assembly shall be annually;" and whereas as a part of the third section of the third article is in the following words: "There shall be a State's attorney and solicitor appointed by the legislature and commissioned by the governor, who shall hold their offices for the term of three years;" and a part of the fifteenth section of the fourth article is in the following words: "The same shall be published at least six months previous to the next ensuing annual election for members of the general assembly;" and whereas the before-recited clauses require amendments:

SECTION 1. *Be it enacted by the senate and house of representatives of the State of Georgia, in general assembly met, and it is hereby enacted by the authority of the same,* That so soon as this act shall have passed, agreeably to the requisitions of the constitution, the following shall be adopted in lieu of the foregoing clauses: In the third section of the first article, the following, to wit: "The senate shall be elected biennially, after the passage of this act, the first election to take place on the first Monday in 1843." In lieu of the seventh section of the first article, the following: "The representatives shall be elected biennially, after the passing of this act, the first election to take place the first Monday in October, eighteen hundred and forty-three;" and in lieu of the clause in the twelfth section in the first article, the following: "The meeting of the general assembly shall be biennially, after the passage of this act, on the first Monday in November;" and in lieu of the clause in the third section of the third article, the following, to wit: "There shall be a State attorney and solicitor elected by the legislature, who shall hold their offices for the term of four years;" and in lieu of the clause in the fifteenth section of the fourth article, the following: "The same shall be published at least six months previous to the next ensuing biennial election for members of the general assembly;" the provisions of this act not to go into effect until the year eighteen hundred and forty-three.

RATIFIED 1841.

ART. III. SEC. 3. *So altered and amended as to read:* There shall be a State's attorney and solicitors appointed by the legislature, and commissioned by the governor, who shall hold their offices for the term of four years, or until their successors shall be elected and qualified, unless removed by sentence on impeachment, or by the governor, on the address of two-thirds of each branch of the general assembly. They shall have salaries adequate to their services, established by law, which shall not be increased or diminished during their continuance in office.

ART. IV. SEC. 15. *Amended by striking out the word "annual."*

RATIFIED 1843.

ARTICLE I. SEC. 3. *So altered and amended as to read:* The senate shall be elected biennially on the first Monday in October, and shall consist of forty-seven members, and shall be composed of one member from each senatorial district, which district

shall be composed of two contiguous counties, not including the county with the largest representative population, which shall constitute a separate district; which districts shall be arranged and organized by the general assembly, at the session when this shall be adopted, and if any new county shall be hereafter formed, it shall be annexed to one of the districts from which it was taken.

ARTICLE I. SEC. 7. *So altered and amended as to read:* The house of representatives shall be composed of one hundred and thirty members; each county shall have one representative, and no county shall have more than two representatives; thirty-seven counties having the greatest population, counting all free white persons, and three-fifths of the people of color, shall have two representatives; the said apportionment shall be made by the general assembly, at the session at which this section shall be adopted as an alteration of the constitution, by an act to be introduced after the adoption thereof, and a new apportionment shall be made at the session next after each future enumeration of the inhabitants of this State, made under the constitution and laws thereof, but at no other time.

ART. III. SECTION 1. *Added to the concluding portion of the section, so that it reads:* And in case of a maker and indorser or indorsers of promissory notes residing in different counties in this State, the same may be sued in the county where the maker resides, and a copy of the petition and process served on the indorser or indorsers residing out of the county in which the suit may be commenced shall be deemed sufficient service, under the same rules and regulations as the legislature have or may direct in the case of joint obligors and joint promisors. The superior and inferior courts shall sit in each county twice in every year, at such stated times as have or may be appointed by the legislature.

ART. IV. SEC. 3. *So altered and amended as to read:* It shall and may be lawful for all major-generals and brigadier-generals to be elected by the people of the respective divisions and brigades; and all persons subject to military duty shall be entitled to vote for the same only, and shall be commissioned by the governor. All other officers of the militia shall be elected in such manner as the legislature may direct, and shall be commissioned by the governor; and all militia officers now in commission, and those which may be hereafter commissioned, shall hold their commissions during their usual residence within the division, brigade, regiment, battalion, or company to which they belong, unless removed by sentence of a court-martial, or by the governor on the address of two-thirds of each branch of the general assembly.

RATIFIED 1847.

ART. II. SEC. 3. *So altered and amended as to read:* No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained to the age of thirty years.

RATIFIED 1849.

ART. III. SEC. 9. *So altered and amended as to read:* Divorces shall be final and conclusive when the parties shall have obtained the concurrent verdicts of two special juries, authorizing a divorce upon such legal principles as the general assembly may by law prescribe.

CONSTITUTION OF GEORGIA—1861.

[A State convention, called by an act of the legislature, passed an ordinance of secession January 19, 1861, and on March 23, 1861, completed a revision of the State constitution, which was ratified by the people on the first Tuesday of the following July.]

CONSTITUTION OF GEORGIA—1865.*

PREAMBLE.

We, the people of the State of Georgia, in order to form a permanent government, establish justice, insure domestic tranquillity, and secure the blessing of liberty to ourselves and our posterity, acknowledging and invoking the guidance of Almighty God, the author of all good government, do ordain and establish this constitution for the State of Georgia :

ARTICLE I.

DECLARATION OF RIGHTS.

One. Protection to person and property is the duty of government.

Two. No person shall be deprived of life, liberty, or property, except by due process of law.

Three. The writ of *habeas corpus* shall not be suspended unless, in case of rebellion or invasion, the public safety may require it.

Four. A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Five. Perfect freedom of religious sentiment be, and the same is hereby, secured, and no inhabitant of this State shall ever be molested in person or property, nor prohibited from holding any public office or trust, on account of his religious opinions.

Six. Freedom of speech, and freedom of the press, are inherent elements of political liberty. But while every citizen may freely speak or write or print on any subject, he shall be responsible for the abuse of the liberty.

Seven. The right of the people to appeal to the courts, to petition government on all matters of legitimate cognizance, and peaceably to assemble for the consideration of any matter of public concern, shall never be impaired.

Eight. Every person charged with an offence against the laws of the State shall have the privilege and benefit of counsel, shall be furnished on demand with a copy of the accusation, and list of the witnesses on whose testimony the charge against him is founded; shall have compulsory process to obtain the attendance of his own witnesses; shall be confronted with the witnesses testifying against him, and shall have a public and speedy trial by an impartial jury, as heretofore practised in Georgia.

Nine. No person shall be put in jeopardy of life or liberty more than once for the same offence, save on his or her own motion for a new trial after conviction, or in case of mistrial.

Ten. No conviction shall work corruption of blood or general forfeiture of estate.

Eleven. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Twelve. The powers of the courts to punish for contempt shall be limited by legislative acts.

Thirteen. Legislative acts in violation of the constitution are void, and the judiciary shall so declare them.

Fourteen. *Ex post facto* laws, laws impairing the obligation of contracts, and retroactive laws injuriously affecting any right of the citizen, are prohibited.

Fifteen. Laws should have a general operation, and no general law affecting private rights shall be varied in any particular case by special legislation, except with the free consent, in writing, of all persons to be affected thereby; and no person being under a legal disability to contract is capable of such free consent.

Sixteen. The power of taxation over the whole State shall be exercised by the general assembly only to raise revenue for the support of government, to pay the public debt, to provide for the common defence, and for such other purposes as the general assembly

* A convention, called by Provisional Governor James Johnson, met October 25, 1865, repealed the ordinance of secession October 30, and submitted this constitution to the people November 7, 1865. It was ratified, receiving 17,699 votes.

bly may be specially required or empowered to accomplish by this constitution. But the general assembly may, by statute, grant the power of taxation for designated purposes, with such limitations as they may deem expedient, to county authorities and municipal corporations, to be exercised within their several territorial limits.

Seventeen. In cases of necessity, private ways may be granted upon just compensation being first paid; and with this exception private property shall not be taken, save for public use, and then only on just compensation, to be first provided and paid, unless there be a pressing, unforeseen necessity; in which event the general assembly shall make early provision for such compensation.

Eighteen. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place or places to be searched, and the persons and things to be seized.

Nineteen. The person of a debtor shall not be detained in prison, after delivery, for the benefit of his creditors, of all his estate not expressly exempted by law from levy and sale.

Twenty. The Government of the United States having, as a war-measure, proclaimed all slaves held or owned in this State emancipated from slavery, and having carried that proclamation into full practical effect, there shall henceforth be, within the State of Georgia, neither slavery or involuntary servitude, save as a punishment for crime, after legal conviction thereof: *Provided*, This acquiescence in the action of the Government of the United States is not intended to operate as a relinquishment, waiver, or estoppel of such claim for compensation of loss sustained by reason of the emancipation of his slaves as any citizen of Georgia may hereafter make upon the justice and magnanimity of that Government.

Twenty-one. The enumeration of rights herein contained is a part of this constitution, but shall not be construed to deny to the people any inherent rights which they have hitherto enjoyed.

ARTICLE II.

SECTION 1. One. The legislative, executive, and judicial departments shall be distinct; and each department shall be confided to a separate body of magistracy. No person, or collection of persons, being of one department, shall exercise any power properly attached to either of the others, except in cases herein expressly provided.

Two. The legislative power shall be vested in a general assembly, which shall consist of a senate and house of representatives, the members whereof shall be elected and returns of the elections made in the manner now prescribed by law (until changed by the general assembly) on the 15th day of November, in the present year, and biennially thereafter, on the first Wednesday of October, to serve until their successors shall be elected; but the general assembly may, by law, change the day of election.

Three. The first meeting of the general assembly, under this constitution, shall be on the first Monday in December next, after which it shall meet annually on the first Thursday in November, or on such other day as the general assembly may prescribe. A majority of each house shall constitute a quorum to transact business, but a smaller number may adjourn from day to day and compel the attendance of its absent members, as each house may provide. No session of the general assembly, after the first above mentioned, shall continue longer than forty days, unless prolonged by a vote of two-thirds of each branch thereof.

Four. No person holding any military commission, or other appointment, having any emolument or compensation annexed thereto, under this State or the United States, or either of them, (except justices of the inferior court, justices of the peace, and officers of the militia,) nor any defaulter for public money, or for any legal taxes required of him, shall have a seat in either branch of the general assembly; nor shall any senator or representative, after his qualification as such, be elected by the general assembly, or appointed by the governor, with the advice and consent of two-thirds of the senate, to any office or appointment having any emolument or compensation annexed thereto, during the time for which he shall have been elected.

Five. No person convicted of any felony before any court of this State, or of the United States, shall be eligible to any office, or appointment of honor, profit, or trust, within this State, until he shall have been pardoned.

Six. No person who is collector or holder of public money shall be eligible to any office in this State until the same is accounted for and paid into the treasury.

Sec. 2. There shall be forty-four senatorial districts in the State of Georgia, each composed of three contiguous counties, from each of which districts one senator shall be chosen, until otherwise arranged, as hereinafter provided.

The said districts shall be constituted of counties as follows:

The first district, of Chatham, Bryan, and Effingham.

The second, of Liberty, Tattnall, and MacIntosh.

The third, of Wayne, Pierce, and Appling.

The fourth, of Glynn, Camden, and Charlton.

The fifth, of Coffee, Ware, and Clinch.

The sixth, of Echols, Lowndes, and Berrien.

The seventh, of Brooks, Thomas, and Colquitt.

The eighth, of Decatur, Mitchell, and Miller.

The ninth, of Early, Calhoun, and Baker.

The tenth, of Dougherty, Lee, and Worth.

The eleventh, of Clay, Randolph, and Terrell.

The twelfth, of Stewart, Webster, and Quitman.

The thirteenth, of Sumter, Schley, and Macon.

The fourteenth, of Dooly, Wilcox, and Pulaski.

The fifteenth, of Montgomery, Telfair, and Irwin.

The sixteenth, of Laurens, Johnson, and Emanuel.

~ The seventeenth, of Bullock, Scriven, and Burke.

The eighteenth, of Richmond, Glascock, and Jefferson.

The nineteenth, of Taliaferro, Warren, and Greene.

The twentieth, of Baldwin, Hancock, and Washington.

The twenty-first, of Twiggs, Wilkinson, and Jones.

The twenty-second, of Bibb, Monroe, and Pike.

The twenty-third, of Houston, Crawford, and Taylor.

The twenty-fourth, of Marion, Chattahoochee, and Muscogee.

The twenty-fifth, of Harris, Upson, and Talbot.

The twenty-sixth, of Spalding, Butts, and Fayette.

The twenty-seventh, of Newton, Walton, and Clarke.

The twenty-eighth, of Jasper, Putnam, and Morgan.

The twenty-ninth, of Wilkes, Lincoln, and Columbia.

The thirtieth, of Oglethorpe, Madison, and Elbert.

The thirty-first, of Hart, Franklin, and Habersham.

The thirty-second, of White, Lumpkin, and Dawson.

The thirty-third, of Hall, Banks, and Jackson.

The thirty-fourth, of Gwinnett, DeKalb, and Henry.

The thirty-fifth, of Clayton, Fulton, and Cobb.

The thirty-sixth, of Meriwether, Cowetta, and Campbell.

The thirty-seventh, of Troup, Heard, and Carroll.

The thirty-eighth, of Haralson, Polk, and Paulding.

The thirty-ninth, of Cherokee, Milton, and Forsyth.

The fortieth, of Union, Towns, and Rabun.

The forty-first, of Fannin, Gilmer, and Pickens.

The forty-second, of Bartow, Floyd, and Chattooga.

The forty-third, of Murray, Whitfield, and Gordon.

The forty-fourth, of Walker, Dade, and Catoosa.

If a new county be established, it shall be added to a district which it adjoins. The senatorial districts may be changed by the general assembly, but only at the first session after the taking of each new census by the United States Government, and their number shall never be increased.

Two. No person shall be a senator who shall not have attained to the age of twenty-

five years and be a citizen of the United States, and have been for three years an inhabitant of this State, and for one year a resident of the district from which he is chosen.

Three. The presiding officer shall be styled the president of the senate, and shall be elected *viva voce* from their own body.

Four. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, profit, or trust within this State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

SEC. 3. One. The house of representatives shall be composed as follows: The thirty-seven counties having the largest representative population shall have two representatives each. Every other county shall have one representative. The designation of the counties having two representatives shall be made by the general assembly immediately after the taking of each census.

Two. No person shall be a representative who shall not have attained to the age of twenty-one years, and be a citizen of the United States, and have been for three years an inhabitant of the State, and for one year a resident of the county which he represents.

Three. The presiding officer of the house of representatives shall be styled the speaker, and shall be elected *viva voce* from their own body.

Four. They shall have the sole power to impeach all persons who have been or may be in office.

Five. All bills for raising revenue or appropriating money shall originate in the house of representatives; but the Senate may propose or concur in amendments, as in other bills.

SEC. 4. One. Each house shall be the judge of the election returns and qualifications of its own members; and shall have power to punish them for disorderly behavior or misconduct, by censure, fine, imprisonment, or expulsion; but no member shall be expelled except by a vote of two-thirds of the house from which he is expelled.

Two. Each house may punish, by imprisonment, not extending beyond the session, any person not a member, who shall be guilty of a contempt by any disorderly behavior in its presence; or who, during the session, shall threaten injury to the person or estate of any member, for anything said or done in either house; or who shall assault any member therefor or who shall assault or arrest any witness going to or returning therefrom; or who shall rescue, or attempt to rescue, any person arrested by order of either house.

Third. The members of both houses shall be free from arrest during their attendance on the general assembly, and in going to and returning therefrom; except for treason, felony, or breach of the peace. And no member shall be liable to answer in any other place for anything spoken in debate in either house.

Four. Each house shall keep a journal of its proceedings, and publish them immediately after its adjournment. The yeas and nays of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journals. The original journals shall be preserved (after publication) in the office of the secretary of state; but there shall be no other record thereof.

Five. Every bill, before it shall pass, shall be read three times, and on three separate and distinct days, in each house, unless in case of actual invasion or insurrection. Nor shall any law or ordinance pass which refers to more than one subject-matter, or contains matter different from what is expressed in the title thereof.

Six. All acts shall be signed by the president of the senate and the speaker of the house of representatives; and no bill, ordinance, or resolution, intended to have the effect of law, which shall have been rejected by either house, shall be again proposed under the same or any other title without the consent of two-thirds of the house, by which the same was rejected.

Seven. Neither house shall adjourn for more than three days, nor to any other place, without the consent of the other; and in case of disagreement between the two houses on a question of adjournment, the governor may adjourn them.

Eight. Every senator and representative, before taking his seat, shall take an oath or affirmation to support the Constitution of the United States and of this State; and also, that he hath not practised any unlawful means, either directly or indirectly, to procure his election. And every person convicted of having given or offered a bribe shall be disqualified from serving as a member of either house for the term for which he was elected.

Nine. Whenever this constitution requires an act to be passed by two-thirds of both houses, the yeas and nays on the passage thereof shall be entered on the journals of each.

SEC. 5. One. The general assembly shall have power to make all laws and ordinances consistent with this constitution, and not repugnant to the Constitution of the United States, which they shall deem necessary and proper for the welfare of the State.

Two. They may alter the boundaries of counties, and lay off and establish new counties; but every bill to establish a new county shall be passed by at least two-thirds of the members present in each branch of the general assembly.

Three. The general assembly shall have power to appropriate money for the promotion of learning and science, and to provide for the education of the people; and shall provide for the early resumption of the regular exercises of the University of Georgia, by the adequate endowment of the same.

Four. The general assembly shall have power, by a vote of two-thirds of each branch, to grant pardons in cases of final conviction for treason, and to pardon or commute after final conviction in capital cases.

Five. It shall be the duty of the general assembly, at its next session, and thereafter as the public welfare may require, to provide by law for the government of free persons of color; for the protection and security of their persons and property, guarding them and the State against any evil that may arise from their sudden emancipation, and prescribing in what cases their testimony shall be admitted in the courts; for the regulation of their transactions with citizens; for the legalizing of their existing and the contracting and solemnization of their future marital relations, and connected therewith their rights of inheritance and testamentary capacity; and for the regulation or prohibition of their immigration into this State from other States of the Union, or elsewhere. And further, it shall be the duty of the general assembly to confer jurisdiction upon courts now existing, or to create county courts with jurisdiction in criminal cases excepted from the exclusive jurisdiction of the superior court, and in civil cases whereto free persons of color may be parties.

SEC. 6. One. The general assembly shall have no power to grant corporate powers and privileges to private companies, except to banking, insurance, railroad, canal, plank-road, navigation, mining, express, lumber, manufacturing, and telegraph companies; nor to make or change election precincts; nor to establish bridges and ferries; nor to change names, or legitimate children; but shall by law prescribe the manner in which such power shall be exercised by the courts. But no bank-charter shall be granted or extended, and no act passed authorizing the suspension of specie payment by any chartered bank, except by a vote of two-thirds of each branch of the general assembly.

Two. No money shall be drawn from the treasury of this State, except by appropriation made by law; and a regular statement and account of the receipt and expenditure of all public money shall be published from time to time.

Three. No vote, resolution, law, or order shall pass, granting a donation or gratuity in favor of any person, except by the concurrence of two-thirds of the general assembly.

Four. No law shall be passed by which a citizen shall be compelled, directly or indirectly, to become a stockholder in or contribute to a railroad, or other work of internal improvement, without his consent, except the inhabitants of a corporate town or city. This provision shall not be construed to deny the power of taxation for the purpose of making levees or dams to prevent the overflow of rivers.

ARTICLE III.

SECTION 1. One. The executive power shall be vested in a governor, the first of whom under this constitution shall hold the office from the time of his inauguration, as by law provided, until the election and qualification of his successor. Each governor subsequently elected shall hold the office for two years and until his successor shall be elected and qualified, and shall not be eligible to re-election after the expiration of a second term for the period of four years. He shall have a competent salary, which shall not be increased nor diminished during the time for which he shall have been elected; neither shall he receive within that time any other emolument from the United States, or either of them, nor from any foreign power.

Two. The governor shall be elected by the persons qualified to vote for members of the general assembly, on the fifteenth day of November, in the year eighteen hundred and sixty-five, and biennially thereafter, on the first Wednesday of October, until such time be altered by law, which election shall be held at the places of holding general elections in the several counties of this State, in the manner prescribed for the election of members of the general assembly. The returns for every election of governor shall be sealed up by the managers, separately from other returns, and directed to the president of the senate and speaker of the house of representatives; and transmitted to the governor, or the person exercising the duties of governor for the time being; who shall, without opening the said returns, cause the same to be laid before the senate, on the day after the two houses shall have been organized; and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative chamber, and the president of the senate and the speaker of the house of representatives shall open and publish the returns in presence of the general assembly; and the person having the majority of the whole number of votes given in shall be declared duly elected governor of this State; but if no person have such majority, then from the two persons having the highest number of votes, who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall immediately elect a governor *viva voce*; and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Three. No person shall be eligible to the office of governor who shall not have been a citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained the age of thirty years.

Four. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of the government until such disability be removed, or a successor is elected and qualified. And in case of the death, resignation, or disability of the president of the senate, the speaker of the house of representatives shall exercise the executive power of the government until the removal of the disability or the election and qualification of a governor.

Five. The governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear or affirm (as the case may be) that I will faithfully execute the office of governor of the State of Georgia; and will, to the best of my abilities, preserve, protect, and defend the constitution thereof, and the Constitution of the United States of America."

SEC. 2. One. The governor shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

Two. He shall have power to grant reprieves for offences against the State, except in cases of impeachment, and to grant pardons, or to remit any part of a sentence, in all cases after conviction, except for treason, murder, or other capital offences, in which cases he may respite the execution, and make report thereof to the next general assembly.

Three. He shall issue writs of elections to fill vacancies that happen in the senate or house of representatives, and shall have power to convene the general assembly on extraordinary occasions; and shall give them, from time to time, information of the

state of the republic, and recommend to their consideration such measures as he may deem necessary and expedient.

Four. When any office shall become vacant by death, resignation, or otherwise, the governor shall have power to fill such vacancy unless otherwise provided for by law; and persons so appointed shall continue in office until a successor is appointed, agreeably to the mode pointed out by this constitution, or by law in pursuance thereof.

Five. A person once rejected by the senate shall not be reappointed by the governor to the same office during the same session or the recess thereafter.

Six. The governor shall have the revision of all bills passed by both houses, before the same shall become laws, but two-thirds of each house may pass a law notwithstanding his dissent; and if any bill should not be returned by the governor within five days (Sundays excepted) after it has been presented to him, the same shall be law, unless the general assembly, by their adjournment, shall prevent its return. He may approve any appropriation and disapprove any other appropriation in the same bill, and the latter shall not be effectual unless passed by two-thirds of each house.

Seven. Every vote, resolution, or order, to which the concurrence of both houses may be necessary, except on a question of election or adjournment, shall be presented to the governor; and before it shall take effect be approved by him, or, being disapproved, shall be repassed by two-thirds of each house, according to the rules and limitations prescribed in the case of a bill.

Eight. There shall be a secretary of state, a comptroller-general, a treasurer, and surveyor-general, elected by the general assembly, and they shall hold their offices for the like period as the governor, and shall have a competent salary, which shall not be increased or diminished during the period for which they shall have been elected. The general assembly may at any time consolidate any two of these offices, and require all the duties to be discharged by one officer.

Nine. The great seal of the State shall be deposited in the office of the secretary of state, and shall not be affixed to any instrument of writing but by order of the governor or general assembly; and that used previously to the year 1861 shall be the great seal of the State.

Ten. The governor shall have power to appoint his own secretaries, not exceeding two in number.

ARTICLE IV.

SECTION 1. One. The judicial powers of this State shall be vested in a supreme court for the correction of errors, a superior, inferior, ordinary, and justices' courts, and in such other courts as have been, or may be, established by law.

Two. The supreme court shall consist of three judges, who shall be elected by the general assembly, for such term of years, not less than six, as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified; removable by the governor on the address of two thirds of each branch of the general assembly, or by impeachment and conviction thereon.

Three. The said court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors in law and equity from the superior courts of the several circuits, and from the city courts of the cities of Savannah and Augusta, and such other like courts as may be hereafter established in other cities; and shall sit "at the seat of government" at such time or times in each year as the general assembly shall prescribe, for the trial and determination of writs of error from said courts.

Four. The said court shall dispose of and finally determine every case on the docket of such court, at the first or second term after such writ of error brought; and in case the plaintiff in error shall not be prepared at the first term of such court, after error brought, to prosecute the case, unless precluded by some providential cause from such prosecution, it shall be stricken from the docket and the judgment below affirmed. And in any case that may occur, the court may, in its discretion, withhold its judgment until the term next after the argument thereon.

SEC. 2. One. The judges of the superior courts shall be elected on the first Wednesday in January, until the legislature shall otherwise direct, immediately before the

expiration of the term for which they or either of them may have been appointed or elected, from the circuits in which they are to serve, by a majority vote of the people of the circuit qualified to vote for members of the general assembly, for the term of four years, vacancies to be filled as is provided by the laws of force prior to January 1, 1861, and shall continue in office until their successors shall be elected and qualified; removable by the governor on the address of two-thirds of each branch of the general assembly, or by impeachment and conviction thereon.

Two. The superior court shall have exclusive jurisdiction in all cases of divorce, both total and partial; but no total divorce shall be granted except on the concurrent verdicts of two special juries. In each divorce case, the court shall regulate the rights and disabilities of the parties.

Three. The superior courts shall also have exclusive jurisdiction in all criminal cases, except as relates to fines for neglect of duty, contempts of court, violation of road-laws, obstructions of water-courses, and in all other minor offences which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; jurisdiction of all such cases shall be vested in such county or corporation courts, or such other courts, judicatures, or tribunals as now exist, or may hereafter be constituted, under such rules and regulations as the legislature may have directed, or may hereafter by law direct.

Four. All criminal cases shall be tried in the county where the crime was committed, except in cases where a jury cannot be obtained.

Five. The superior court shall have exclusive jurisdiction in all cases respecting titles to land, which shall be tried in the county where the land lies; and also in all equity causes which shall be tried in the county where one or more of the defendants reside, against whom substantial relief is prayed.

Six. It shall have appellate jurisdiction in all such cases as may be provided by law.

Seven. It shall have power to correct errors in inferior judicatures by writ of *certiorari*, and to grant new trials in the superior court on proper and legal grounds.

Eight. It shall have power to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs which may be necessary for carrying its powers fully into effect.

Nine. The superior court shall have jurisdiction in all other civil cases, and in them the general assembly may give concurrent jurisdiction to the inferior court, or such other county court as they may hereafter create, which cases shall be tried in the county where the defendant resides.

Ten. In case of joint obligors, or joint promisors or copartners, or joint trespassers residing in different counties, the suit may be brought in either county.

Eleven. In case of a maker and indorser or indorsers of promissory notes residing in different counties in this State, the same may be sued in the county where the maker resides.

Twelve. The superior court shall sit in each county not less than twice in every year, at such stated times as have been or may be appointed by the general assembly, and the inferior and county courts at such times as the general assembly may direct.

SEC. 3. One. The judges shall have salaries adequate to their services fixed by law, which shall not be diminished nor increased during their continuance in office; but shall not receive any other perquisites or emoluments whatever, from parties or others, on account of any duty required of them.

Two. There shall be a State's attorney and solicitors elected in the same manner as the judges of the superior court, and commissioned by the governor, who shall hold their offices for the term of four years, or until their successors shall be appointed and qualified, unless removed by sentence on impeachment, or by the governor on the address of two-thirds of each branch of the general assembly. They shall have salaries adequate to their services fixed by law, which shall not be increased or diminished during their continuance in office.

Three. The justice or justices of the inferior court, and the judges of such other county court as may by law be created, shall be elected in each county by the persons entitled to vote for members of the general assembly.

Four. The justice of the peace shall be elected in each district by the persons entitled to vote for members of the general assembly.

Five. The powers of a court of ordinary and of probate shall be vested in an ordinary for each county, from whose decision there may be an appeal to the superior court, under regulations prescribed by law. The ordinary shall be *ex-officio* clerk of said court, and may appoint a deputy clerk. The ordinary, as clerk, or his deputy, may issue citations, and grant temporary letters of administration, to hold until permanent letters are granted; and said ordinary, as clerk, or his deputy, may grant marriage-licenses. The ordinaries in and for the respective counties shall be elected, as other county officers are, on the first Wednesday in January, 1868, and every fourth year thereafter, and shall be commissioned by the governor for the term of four years. In case of any vacancy of said office of ordinary, from any cause, the same shall be filled by election, as is provided in relation to other county officers, and until the same is filled, the clerk of the superior court for the time being shall act as clerk of said court of ordinary.

ARTICLE V.

SECTION 1. One. The electors or members of the general assembly shall be free white male citizens of this State, and shall have attained the age of twenty-one years, and have paid all taxes which may have been required of them, and which they have had an opportunity of paying, agreeable to law, for the year preceding the election; shall be citizens of the United States, and shall have resided six months either in the district or county, and two years within this State, and no person not qualified to vote for members of the general assembly shall hold any office in this State.

Two. All elections by the general assembly shall be *viva voce*, and the vote shall always appear on the journal of the house of representatives, and where the Senate and house of representatives unite for the purpose of electing, they shall meet in the representative chamber, and the president of the senate shall in such cases preside and declare the person or persons elected.

Three. In all elections by the people the electors shall vote by ballot until the general assembly shall otherwise direct.

Four. All civil officers heretofore commissioned by the governor, or who have been duly appointed, or elected, since the first day of January last, but who have not received their commissions, and who have not resigned, nor been removed from office, and whose terms of office shall not have expired, shall continue in the exercise of the duties of their respective offices during the periods for which they were duly appointed or duly elected as aforesaid, and commissioned, and until their successors shall be appointed under the provisions of this constitution, unless removed from office as herein provided.

Five. Laws of general operation now of force in this State are, 1st, as the supreme law, the Constitution of the United States; the laws of the United States in pursuance thereof, and all treaties made under the authority of the United States; 2d, as next in authority thereto, this constitution; 3d, in subordination to the foregoing, all laws declared of force by an act of the general assembly of this State, assented to December the 19th, A. D. 1860, entitled "An act to approve, adopt, and make of force, in the State of Georgia, a revised code of laws, prepared under the direction and by authority of the general assembly thereof, and for other purposes therewith connected," an act of the general assembly aforesaid, assented to December 16, A. D. 1861, amendatory of the foregoing, and an act of the general assembly aforesaid, assented to December 13, A. D. 1862, entitled "An act to settle the conflicts between the code and the legislation of this general assembly;" also, all acts of the general assembly aforesaid, passed since the date last written, altering, amending, repealing, or adding to any portion of law hereinbefore mentioned, (the latter enactments having preference in case of conflict,) and also so much of the common and statute law of England, and of the statute laws of this State of force in Georgia in the year eighteen hundred and sixty, as is not expressly superseded by nor inconsistent with said codes, though not embodied therein; except so much of the law aforesaid as may violate the supreme law herein recognized, or may conflict with this constitution, and except so much thereof as refers to persons held in slavery, which excepted laws shall henceforth be inoperative and void, and any future general

assembly of this State shall be competent to alter, amend, or repeal any portion of the law declared to be of force in this third specification of the fifth clause of this fifth article. If in any statute law herein declared of force the word "Confederate" occurs before the word States, such law is hereby amended by substituting the word "United" for the word "Confederate."

Six. Local and private statutes heretofore passed, intended for the benefit of counties, cities, towns, corporations, and private persons, not inconsistent with the supreme law, nor with this constitution, and which have neither expired by their own limitations nor have been repealed, shall have the force of statute law, subject to judicial decision as to their validity when enacted, and to any limitations imposed by their own terms.

Seven. All judgments, decrees, orders, and other proceedings of the several courts of this State, heretofore made within the limits of their several jurisdictions, are hereby ratified and affirmed, subject only to past and future reversal, by motion for new trial, appeal, bill of review, or other proceedings, in conformity with the law of force when they were made.

Eight. All rights, privileges, and immunities which may have vested in or accrued to any person or persons, in his, her, or their own right, or in any fiduciary capacity, under and in virtue of any act of the general assembly, or of any judgment, decree, or order, or other proceeding of any court of competent jurisdiction in this State, since the first day of January, A. D. eighteen hundred and sixty-one, shall be held inviolate by all courts before which they may be brought in question, unless attacked for fraud.

Nine. The marriage relation between white persons and persons of African descent is forever prohibited, and such marriage shall be null and void; and it shall be the duty of the general assembly to enact laws for the punishment of any officer who shall knowingly issue a license for the celebration of such marriage, or any officer or minister of the gospel who shall marry such persons together.

Ten. All militia and county officers shall be elected by the people, under such regulations as have been or may be prescribed by law.

Eleven. This constitution shall be altered or amended only by a convention of the people, called for that purpose by act of the general assembly.

Signed November 7, 1865.

HERSCHEL V. JOHNSON, *President*.

Attest: J. D. WADDELL, *Secretary*.

CONSTITUTION OF GEORGIA—1868.*

PREAMBLE.

We, the people of Georgia, in order to form a permanent government, establish justice, insure domestic tranquillity, and secure the blessings of liberty to ourselves and our posterity, acknowledging and invoking the guidance of Almighty God, the author of all good government, do ordain and establish this constitution for the State of Georgia:

ARTICLE I.

DECLARATION OF FUNDAMENTAL PRINCIPLES.

SECTION 1. Protection to person and property is the paramount duty of government, and shall be impartial and complete.

SEC. 2. All persons born or naturalized in the United States, and resident in this State, are hereby declared citizens of this State, and no laws shall be made or enforced which shall abridge the privileges or immunities of citizens of the United States, or of

* A convention, called by order of Major-General Meade, met at Atlanta December 8, 1867, and submitted this constitution to the people March 11, 1868. It was ratified, receiving 89,007 votes against 71,309 votes.

this State, or deny to any person within its jurisdiction the equal protection of its laws. And it shall be the duty of the general assembly, by appropriate legislation, to protect every person in the due enjoyment of the rights, privileges, and immunities guaranteed in this section.

SEC. 3. No person shall be deprived of life, liberty, or property, except by due process of law.

SEC. 4. There shall be within the State of Georgia neither slavery nor involuntary servitude, save as a punishment for crime after legal conviction thereof.

SEC. 5. The right of the people to appeal to the courts, to petition government on all matters, and peaceably to assemble for the consideration of any matter, shall never be impaired.

SEC. 6. Perfect freedom of religious sentiment shall be, and the same is hereby, secured, and no inhabitant of this State shall ever be molested in person or property, or prohibited from holding any public office or trust, on account of his religious opinion; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the people.

SEC. 7. Every person charged with an offence against the laws shall have the privilege and benefit of counsel, shall be furnished, on demand, with a copy of the accusation and a list of the witnesses on whose testimony the charge against him is founded, shall have compulsory process to obtain the attendance of his own witnesses, shall be confronted with the witnesses testifying against him, and shall have a public and speedy trial by an impartial jury.

SEC. 8. No person shall be put in jeopardy of life or liberty more than once for the same offence, save on his or her own motion for a new trial after conviction, or in case of mistrial.

SEC. 9. Freedom of speech and freedom of the press are inherent elements of political liberty. But while every citizen may freely speak, or write, or print on any subject, he shall be responsible for the abuse of the liberty.

SEC. 10. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or things to be seized.

SEC. 11. The social status of the citizen shall never be the subject of legislation.

SEC. 12. No person shall be molested for his opinions, or be subject to any civil or political incapacity, or acquire any civil or political advantage in consequence of such opinions.

SEC. 13. The writ of *habeas corpus* shall not be suspended unless, in case of rebellion or invasion, the public safety may require it.

SEC. 14. A well-regulated militia being necessary to the security of a free people, the right of the people to keep and bear arms shall not be infringed; but the general assembly shall have power to prescribe by law the manner in which arms may be borne.

SEC. 15. The punishment of all frauds shall be provided by law.

SEC. 16. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted, nor shall any person be abused in being arrested, whilst under arrest, or in prison.

SEC. 17. The power of the courts to punish for contempt shall be limited by legislative acts.

SEC. 18. There shall be no imprisonment for debt.

SEC. 19. In all prosecutions or indictments for libel the truth may be given in evidence, and the jury shall have the right to determine the law and the facts.

SEC. 20. Private ways may be granted upon just compensation being paid by the applicant.

SEC. 21. All penalties shall be proportioned to the nature of the offence.

SEC. 22. Whipping, as a punishment for crime, is prohibited.

SEC. 23. No lottery shall be authorized, or sale of lottery-tickets allowed, in this State, and adequate penalties for such sale shall be provided by law.

SEC. 24. No conviction shall work corruption of blood, and no conviction of treason shall work a general forfeiture of estate longer than during the life of the person attainted.

SEC. 25. Treason against the State of Georgia shall consist only in levying war against the State, or the United States, or adhering to the enemies thereof, giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 26. Laws shall have a general operation, and no general law, affecting private rights, shall be varied, in any particular case, by special legislation, except with the free consent, in writing, of all persons to be affected thereby; and no person under legal disability to contract is capable of such free consent.

SEC. 27. The power of taxation over the whole State shall be exercised by the general assembly only to raise revenue for the support of government, to pay the public debt, to provide a general school-fund, for common defence and for public improvement; and taxation on property shall be *ad valorem* only, and uniform on all species of property taxed.

SEC. 28. The general assembly may grant the power of taxation to county authorities and municipal corporations, to be exercised within their several territorial limits.

SEC. 29. No poll-tax shall be levied except for educational purposes, and such tax shall not exceed one dollar annually on each poll.

SEC. 30. Mechanics and laborers shall have liens upon the property of their employers for labor performed or material furnished, and the legislature shall provide for the summary enforcement of the same.

SEC. 31. The legislative, executive, and judicial departments shall be distinct; and each department shall be confided to a separate body of magistracy. No person, or collection of persons, being of one department, shall exercise any power properly attached to either of the others, except in cases herein expressly provided.

SEC. 32. Legislative acts in violation of this constitution, or the Constitution of the United States, are void, and the judiciary shall so declare them.

SEC. 33. The State of Georgia shall ever remain a member of the American Union: the people thereof are a part of the American nation; every citizen thereof owes paramount allegiance to the Constitution and Government of the United States, and no law or ordinance of this State, in contravention or subversion thereof, shall ever have any binding force.

ARTICLE II.

FRANCHISE AND ELECTIONS.

SECTION 1. In all elections by the people the electors shall vote by ballot.

SEC. 2. Every male person born in the United States, and every male person who has been naturalized, or who has legally declared his intention to become a citizen of the United States, twenty-one years old or upward, who shall have resided in this State six months next preceding the election, and shall have resided thirty days in the county in which he offers to vote, and shall have paid all taxes which may have been required of him, and which he may have had an opportunity of paying, agreeably to law, for the year preceding the election, (except as hereinafter provided,) shall be deemed an elector; and every male citizen of the United States, of the age aforesaid, (except as hereinafter provided,) who may be a resident of the State at the time of the adoption of this constitution, shall be deemed an elector, and shall have all the rights of an elector, as aforesaid: *Provided*, That no soldier, sailor, or marine in the military or naval service of the United States shall acquire the rights of an elector by reason of being stationed on duty in this State; and no person shall vote who, if challenged, shall refuse to take the following oath:

"I do swear that I have not given or received, nor do I expect to give or receive, any money, treat, or other thing of value, by which my vote, or any vote, is affected, or expected to be affected, at this election, nor have I given or promised any reward, or made any threat, by which to prevent any person from voting at this election."

SEC. 3. No person convicted of felony or larceny before any court of this State, or

of or in the United States, shall be eligible to any office or appointment of honor or trust within this State, unless he shall have been pardoned.

SEC. 4. No person who is the holder of any public moneys shall be eligible to any office in this State until the same is accounted for and paid into the treasury.

SEC. 5. No person who, after the adoption of this constitution, being a resident of this State, shall engage in a duel in this State, or elsewhere, or shall send or accept a challenge, or be aider or abettor to such duel, shall vote or hold office in this State; and every such person shall also be subject to such punishment as the law may prescribe.

SEC. 6. The general assembly may provide, from time to time, for the registration of all electors, but the following classes of persons shall not be permitted to register, vote, or hold office: 1st. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery; 2d. Idiots or insane persons.

SEC. 7. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest for five days before an election, during the election, and two days subsequent thereto.

SEC. 8. The sale of intoxicating liquors on days of election is prohibited.

SEC. 9. Returns of election for all civil officers elected by the people, who are to be commissioned by the governor, and also for the members of the general assembly, shall be made to the secretary of state, unless otherwise provided by law.

SEC. 10. The general assembly shall enact laws giving adequate protection to electors before, during, and subsequent to elections.

SEC. 11. The election of governor, members of Congress, and of the general assembly, after the year 1868, shall commence on the Tuesday after the first Monday in November, unless otherwise provided by law.

ARTICLE III.

LEGISLATIVE DEPARTMENT.

SECTION 1. One. The legislative power shall be vested in a general assembly, which shall consist of a senate and house of representatives, and, until otherwise directed, the members thereof, after the first election, shall be elected, and the returns of the election made, as now prescribed by law.

Two. The members of the senate shall be elected for four years, except that the members elected at the first election from the twenty-two senatorial districts numbered in this constitution with odd numbers, shall only hold their office for two years. The members of the house of representatives shall be elected for two years. The election for members of the general assembly shall begin on Tuesday after the first Monday in November of every second year, except the first election, which shall be within sixty days after the adjournment of this convention; but the general assembly may by law change the time of election, and the members shall hold until their successors are elected and qualified.

Three. The first meeting of the general assembly shall be within ninety days after the adjournment of this convention, after which it shall meet annually on the second Wednesday in January, or on such other day as the general assembly may prescribe. A majority of each house shall constitute a quorum to transact business; but a smaller number may adjourn from day to day, and compel the presence of its absent members as each house may provide. No session of the general assembly, after the second under this constitution, shall continue longer than forty days, unless prolonged by a vote of two-thirds of each branch thereof.

Four. No person holding a military commission, or other appointment or offices, having any emolument or compensation annexed thereto, under this State or the United States, or either of them, except justices of the peace and officers of the militia, nor any defaulter for public money, or for any legal taxes required of him, shall have a seat in either house; nor shall any senator or representative, after his qualification as such, be elected by the general assembly, or appointed by the governor, either with

or without the advice and consent of the senate, to any office or appointment, having any emolument annexed thereto, during the time for which he shall have been elected.

Five. The seat of a member of either house shall be vacated on his removal from the district from which he was elected.

SEC. 2. One. There shall be forty-four senatorial districts in this State, composed each of three contiguous counties, from each of which districts one senator shall be chosen. Until otherwise arranged, as hereinafter provided, the said districts shall be constituted as follows:

- The first district, of Chatham, Bryan, and Effingham.
- The second district, of Liberty, Tatnall, and McIntosh.
- The third district, of Wayne, Pierce, and Appling.
- The fourth district, of Glynn, Camden, and Charlton.
- The fifth district, of Coffee, Ware, and Clinch.
- The sixth district, of Echols, Lowndes, and Berrien.
- The seventh district, of Brooks, Thomas, and Colquitt.
- The eighth district, of Decatur, Mitchell, and Miller.
- The ninth district, of Early, Calhoun, and Baker.
- The tenth district, of Dougherty, Lee, and Worth.
- The eleventh district, of Clay, Randolph, and Terrell.
- The twelfth district, of Stewart, Webster, and Quitman.
- The thirteenth district, of Sumter, Schley, and Macon.
- The fourteenth district, of Dooley, Wilcox, and Pulaski.
- The fifteenth district, of Montgomery, Telfair, and Irwin.
- The sixteenth district, of Laurens, Johnson, and Emanuel.
- The seventeenth district, of Bullock, Scriven, and Burke.
- The eighteenth district, of Richmond, Glascock, and Jefferson.
- The nineteenth district, of Taliaferro, Warren, and Greene.
- The twentieth district, of Baldwin, Hancock, and Washington.
- The twenty-first district, of Twiggs, Wilkinson, and Jones.
- The twenty-second district, of Bibb, Monroe, and Pike.
- The twenty-third district, of Houston, Crawford, and Taylor.
- The twenty-fourth district, of Marion, Chattahoochee, and Muscogee.
- The twenty-fifth district, of Harris, Upson, and Talbot.
- The twenty-sixth district, of Spalding, Butts, and Fayette.
- The twenty-seventh district, of Newton, Walton, and Clarke.
- The twenty-eighth district, of Jasper, Putnam, and Morgan.
- The twenty-ninth district, of Wilkes, Lincoln, and Columbia.
- The thirtieth district, of Oglethorpe, Madison, and Elbert.
- The thirty-first district, of Hart, Franklin, and Habersham.
- The thirty-second district, of White, Lumpkin, and Dawson.
- The thirty-third district, of Hall, Banks, and Jackson.
- The thirty-fourth district, of Gwinnett, DeKalb, and Henry.
- The thirty-fifth district, of Clayton, Fulton, and Cobb.
- The thirty-sixth district, of Meriwether, Coweta, and Campbell.
- The thirty-seventh district, of Troup, Heard, and Carroll.
- The thirty-eighth district, of Haralson, Polk, and Paulding.
- The thirty-ninth district, of Cherokee, Milton, and Forsyth.
- The fortieth district, of Union, Towns, and Rabun.
- The forty-first district, of Fannin, Gilmer, and Pickens.
- The forty-second district, of Bartow, Floyd, and Chattooga.
- The forty-third district, of Murray, Whitfield, and Gordon.
- The forty-fourth district, of Walker, Dade, and Catoosa.

If a new county be established it shall be added to a district which it adjoins, and from which the larger portion of its territory is taken. The senatorial districts may be changed by the general assembly, but only at the first session after the publication of each census by the United States Government, and their number shall not be increased.

Two. The senators shall be citizens of the United States, who have attained the

age of twenty-five years, and who, after the first election under this constitution, shall have been citizens of this State for two years, and for one year resident of the district from which elected.

Three. The presiding officer of the senate shall be styled the president of the senate, and shall be elected *viva voce* from the senators.

Four. The senate shall have the sole power to try impeachments. When sitting for that purpose the members shall be on oath or affirmation, and shall be presided over by one of the judges of the supreme court, selected for that purpose by a *viva-voce* vote of the senate; and no person shall be convicted without the concurrence of two-thirds of the members present. Judgments in cases of impeachment shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit within this State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

SEC. 3. One. The house of representatives shall consist of one hundred and seventy-five representatives, apportioned as follows: to the six largest counties, to wit, Chatham, Richmond, Fulton, Bibb, Houston, and Burke, three representatives each; to the thirty-one next largest, to wit, Bartow, Columbia, Cobb, Coweta, Clarke, Decatur, Dougherty, Floyd, Gwinnett, Greene, Hancock, Harris, Jefferson, Lee, Muscogee, Monroe, Meriwether, Morgan, Macon, Newton, Oglethorpe, Pulaski, Randolph, Sumter, Stewart, Troup, Thomas, Talbot, Washington, Wilkes, and Warren, two representatives each; and to the remaining ninety-five counties, one representative each.

Two. The above apportionment may be changed by the general assembly after each census by the United States Government, but in no event shall the aggregate number of representatives be increased.

Three. The representatives shall be citizens of the United States who have attained the age of twenty-one years, and who, after the first election under this constitution, shall have been citizens of this State for one year, and for six months resident of the counties from which elected.

The presiding officer of the house of representatives shall be styled the speaker of the house of representatives, and shall be elected *viva voce* from the body.

Five. The house of representatives shall have the sole power to impeach all persons who shall have been or may be in office.

Six. All bills for raising revenue, or appropriating money, shall originate in the house of representatives, but the senate may propose or concur in amendments, as in other bills.

SEC. 4. One. Each house shall be the judge of the election, returns, and qualifications of its members, and shall have power to punish them for disorderly behavior, or misconduct, by censure, fine, imprisonment, or expulsion; but no member shall be expelled, except by a vote of two-thirds of the house from which he is expelled.

Two. Each house may punish, by imprisonment, not extending beyond the session, any person, not a member, who shall be guilty of a contempt by any disorderly behavior in its presence, or who, during the session, shall threaten injury to the person or estate of any member for anything said or done in either house, or who shall assault any member going to or returning therefrom, or who shall rescue or attempt to rescue any person arrested by order of either house.

Three. The members of both houses shall be free from arrest during their attendance on the general assembly, and in going to or returning therefrom, except for treason, felony, larceny, or breach of the peace; and no member shall be liable to answer in any other place for anything spoken in debate in either house.

Four. Each house shall keep a journal of its proceedings, and publish it immediately after its adjournment. The yeas and nays of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journal. The original journal shall be preserved, after publication, in the office of the secretary of state, but there shall be no other record thereof.

Five. Every bill, before it shall pass, shall be read three times, and on three separate days, in each house, unless in cases of actual invasion or insurrection. Nor shall any law or ordinance pass which refers to more than one subject-matter, or contains matter different from what is expressed in the title thereof.

Six. All acts shall be signed by the president of the senate and the speaker of the house of representatives; and no bill, ordinance, or resolution, intended to have the effect of a law, which shall have been rejected by either house, shall be again proposed during the same session, under the same or any other title, without the consent of two-thirds of the house by which the same was rejected.

Seven. Neither house shall adjourn for more than three days, nor to any other place, without the consent of the other; and in case of disagreement between the two houses on a question of adjournment, the governor may adjourn either or both of them.

Eight. The officers of the two houses, other than the president and speaker, shall be a secretary of the senate, and clerk of the house, and an assistant for each; a journalizing clerk, two engrossing and two enrolling clerks for each house, and the number shall not be increased except by a vote of the house. And their pay, as well as the pay and mileage of the members, shall be fixed by law.

Nine. Whenever the constitution requires a vote of two-thirds of either or both houses for the passing of an act or resolution, the yeas and nays on the passage thereof shall be entered on the journal, and all votes on confirmations, or refusals to confirm nominations to office by the governor, shall be by yeas and nays, and the yeas and nays shall be recorded on the journal.

Ten. Every senator, or representative, before taking his seat, shall take an oath, or affirmation, to support the Constitution of the United States, and of this State; that he has not practised any unlawful means, directly or indirectly, to procure his election, and that he has not given, or offered, or promised, or caused to be given, or offered, or promised, to any person, any money, treat, or thing of value, with intent to affect any vote, or to prevent any person voting at the election at which he was elected.

SEC. 5. One. The general assembly shall have power to make all laws and ordinances, consistent with this constitution, and not repugnant to the Constitution of the United States, which they shall deem necessary and proper for the welfare of the State.

Two. The general assembly may alter the boundaries of, or lay off or establish new counties, or abolish counties, attaching the territory thereof to contiguous counties; but no new county shall be established except by a vote of two-thirds of each house; nor shall any county be abolished except by a vote of two-thirds of each house, and after the qualified voters of the county shall, at an election held for the purpose, so decide.

SEC. 6. One. No money shall be drawn from the treasury except by appropriation made by law; and a regular statement and account of the receipt and expenditure of all public money shall be published from time to time, and, also, with the laws passed by each session of the general assembly.

Two. No vote, resolution, law, or order, shall pass, granting a donation, or gratuity, in favor of any person, except by the concurrence of two-thirds of each branch of the general assembly, nor, by any vote, to a sectarian corporation or association.

Three. No law or section of the code shall be amended or repealed by mere reference to its title, or to the number of the section in the code, but the amending or repealing act shall distinctly and fully describe the law to be amended or repealed, as well as the alteration to be made; but this clause shall be construed as directory only to the general assembly.

Four. No law shall be passed by which a citizen shall be compelled against his consent, directly or indirectly, to become a stockholder in, or contribute to, any railroad or work of public improvement, except in the case of the inhabitants of a corporate town or city. In such cases, the general assembly may permit the corporate authorities to take such stock, or make such contribution, or engage in such work, after a majority of the qualified voters of such town or city, voting at an election held for the purpose, shall have voted in favor of the same; but not otherwise.

Five. The general assembly shall have no power to grant corporate powers and privileges to private companies, except to banking, insurance, railroad, canal, navigation, mining, express, lumber, manufacturing, and telegraph companies; nor to make,

or change, election precincts; nor to establish bridges or ferries; nor to change names or legitimate children; but it shall prescribe, by law, the manner in which such powers shall be exercised by the courts. But no charter for any bank shall be granted or extended, and no act passed authorizing the suspension of specie payments by any bank, except by a vote of two-thirds of the general assembly. The general assembly shall pass no law making the State a stockholder in any corporate company; nor shall the credit of the State be granted or loaned to aid any company without a provision that the whole property of the company shall be bound for the security of the State, prior to any other debt or lien, except to laborers; nor to any company in which there is not already an equal amount invested by private persons; nor for any other object than a work of public improvement. No provision in this constitution for a two-thirds vote of both houses of the general assembly shall be construed to waive the necessity for the signature of the governor, as in any other cases, except in the case of the two-thirds vote required to override the veto.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. One. The executive power shall be vested in a governor, who shall hold his office during the term of four years, and until such time as a successor shall be chosen and qualified. He shall have a competent salary, established by law, which shall not be increased or diminished during the period for which he shall have been elected; nor shall he receive within that period any other emolument from the United States, or either of them, or from any foreign power.

Two. After the first election, the governor shall be elected quadrennially, by the persons qualified to vote for members of the general assembly, on the Tuesday after the first Monday in November, until such time be altered by law, which election shall be held at the places of holding general elections in the several counties of this State, in the same manner as is prescribed for the election of members of the general assembly. The returns for every election of governor, after the first, shall be sealed up by the managers, separately from other returns, and directed to the president of the senate and speaker of the house of representatives, and transmitted to his excellency the governor, or the person exercising the duties of governor for the time being, who shall, without opening the said returns, cause the same to be laid before the senate on the day after the two houses shall have been organized; and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative hall, and the president of the senate and the speaker of the house of representatives shall open and publish the returns in the presence of the general assembly; and the person having the majority of the whole number of votes given shall be declared duly elected governor of this State; but if no person have such majority, then from the two persons having the highest number of votes, who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall immediately elect a governor *viva voce*; and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

Three. No person shall be eligible to the office of governor who shall not have been a citizen of the United States fifteen years, and a citizen of this State six years, and who shall not have attained the age of thirty years.

Four. In case of the death, resignation, or disability of the governor, the president of the senate shall exercise the executive powers of the government until such disability be removed or a successor is elected and qualified. And in case of the death, resignation, or disability of the president of the senate, the speaker of the house of representatives shall exercise the executive powers of the government until the removal of the disability or the election and qualification of a governor. The general

assembly shall have power to provide by law for filling unexpired terms by a special election.

Five. The governor shall, before he enters on the duties of his office, take the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be) that I will faithfully execute the office of governor of the State of Georgia, and will, to the best of my ability, preserve, protect, and defend the constitution thereof, and the Constitution of the United States of America."

SEC. 2. One. The governor shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

Two. He shall have power to grant reprieves and pardons, to commute penalties, and to remit any part of a sentence for offences against the State, except in cases of impeachment.

Three. He shall issue writs of election to fill all vacancies that happen in the senate or house of representatives, and shall have power to convoke the general assembly on extraordinary occasions, and shall give them, from time to time, information of the state of the commonwealth, and recommend to their consideration such measures as he may deem necessary and expedient.

Four. When any office shall become vacant by death, resignation, or otherwise, the governor shall have power to fill such vacancy, unless otherwise provided by law; and persons so appointed shall continue in office until a successor is appointed, agreeably to the mode pointed out by this constitution, or by law, in pursuance thereof.

Five. A person once rejected by the senate shall not be reappointed by the governor to the same office during the same session, or the recess thereafter.

Six. The governor shall have the revision of all bills passed by both houses before the same shall become laws, but two-thirds of each house may pass a law, notwithstanding his dissent, and if any bill should not be returned by the governor within five days (Sunday excepted) after it has been presented to him, the same shall be a law, unless the general assembly, by their adjournment, shall prevent its return. He may approve any appropriation and disapprove any other appropriation in the same bill, and the latter shall not be effectual unless passed by two-thirds of each house.

Seven. Every vote, resolution, or order, to which the concurrence of both houses may be necessary, except on a question of election or adjournment, shall be presented to the governor, and before it shall take effect be approved by him, or, being disapproved, shall be repassed by two-thirds of each house, according to the rules and limitations prescribed in case of a bill.

Eight. There shall be a secretary of state, a comptroller-general, a treasurer, and surveyor-general, elected by the general assembly, and they shall hold their offices for the like period as the governor, and shall have a competent salary, which shall not be increased or diminished during the period for which they shall have been elected. The general assembly may, at any time, consolidate any two of these offices, and require all the duties to be discharged by one officer.

Nine. The great seal of the State shall be deposited in the office of the secretary of state, and shall not be affixed to any instrument of writing but by order of the governor, or general assembly; and that now in use shall be the great seal of the State until otherwise provided by law.

Ten. The governor shall have power to appoint his own secretaries, not exceeding two in number, unless more shall be authorized by the general assembly.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. One. The judicial powers of this State shall be vested in a supreme court, superior courts, courts of ordinary, justices of the peace, commissioned notaries public, and such other courts as have been or may be established by law.

SEC. 2. One. The supreme court shall consist of three judges, two of whom shall constitute a quorum. When a majority of the judges are disqualified from deciding

any case, by interest or otherwise, the governor shall designate certain judges of the superior courts to sit in their stead. At the first appointment of judges of the supreme court under this constitution, one shall be appointed for four years, one for eight years, and one for twelve years; but all subsequent appointments, except to fill unexpired terms, shall be for the term of twelve years.

Two. The supreme court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors from the superior courts and from the city courts of Savannah and Augusta, and such other like courts as may be hereafter established in other cities; and shall sit at the seat of government at such times in each year as shall be prescribed by law, for the trial and determination of writs of error from said superior and city courts. The days on which the cases from the several circuits and city courts shall be taken up by the court shall be fixed by law.

Three. The supreme court shall dispose of every case at the first or second term after such writ of error is brought; and in case the plaintiff in error shall not be prepared at the first term to prosecute the case, unless prevented by providential cause, it shall be stricken from the docket, and the judgment below shall stand affirmed. In any case the court may, in its discretion, withhold its judgment until the next term after the same is argued.

Four. When only two judges sit in any case, and they disagree, the judgment below shall stand affirmed.

SEC. 3. One. There shall be a judge of the superior courts for each judicial circuit. He may act in other circuits when authorized by law. At the first appointment of such judges under this constitution, one-half of the number (as near as may be) shall be appointed for four years, and the other half for eight years; but all subsequent appointments, except to fill unexpired terms, shall be for the term of eight years.

Two. The superior courts shall have exclusive jurisdiction in cases of divorce; in criminal cases, where the offender is subjected to loss of life or confinement in the penitentiary; in cases respecting titles to land and equity cases, except as hereinafter provided; but the general assembly shall have power to merge the common law and equity jurisdiction of said courts. Said courts shall have jurisdiction in all other civil cases, except as hereinafter provided. They shall have appellate jurisdiction in all such cases as may be provided by law; they shall have power to correct errors in inferior judicatories, by writ of *certiorari*, which shall only issue on the sanction of the judge; and to issue writs of *mandamus*, prohibition, *scire facias*, and all other writs that may be necessary for carrying their powers fully into effect, and shall have such other powers as shall be conferred on them by law.

Three. There shall be no appeal from one jury in the superior courts to another, but the court may grant new trials on legal grounds. The court shall render judgment without the verdict of a jury in all civil cases founded on contract, where an issuable defence is not filed on oath.

Four. The superior courts shall sit in each county not less than twice in each year, at such times as have been or may be appointed by law.

SEC. 4. One. Until the general assembly shall otherwise direct, there shall be a district judge and a district attorney for each senatorial district in this State.

Two. The district judge shall have jurisdiction to hear and determine all offences not punishable with death or imprisonment in the penitentiary; and it shall be the duty of the district attorney to represent the State in all cases before the district judge.

Three. The district judge shall sit at stated times, not less than once in each month in each county in his district for the trial of offences, and at such other times as the general assembly may direct.

Four. Offences shall be tried before the district judge on a written accusation founded on affidavit; said accusation shall plainly set forth the offence charged, and shall contain the name of the accuser, and be signed by the district attorney.

Five. There shall be no jury-trial before the district judge except when demanded by the accused, in which case the jury shall consist of seven.

Six. Such civil jurisdiction may be conferred on the district judges as the general assembly may direct.

Seven. The district judges and attorneys shall hold their offices for a period of four

years, and shall receive for their services such stated compensation in their respective districts as may be provided by law, but in no event shall their compensation be in anywise dependent on fines, forfeitures, or costs.

SEC. 5. One. The powers of a court of ordinary and of probate shall be vested in an ordinary for each county, from whose decision there may be an appeal to the superior court, under regulations prescribed by law.

Two. The courts of ordinary shall have such powers in relation to roads, bridges, ferries, public buildings, paupers, county officers, county funds and taxes, and other matters, as shall be conferred on them by law.

Three. The ordinary shall hold his office for the term of four years, and until his successor is elected and qualified.

SEC. 6. One. There shall be in each district one justice of the peace, whose official term, except when elected to fill an unexpired term, shall be four years.

Two. The justices of the peace shall have jurisdiction, except as hereinafter provided, in all civil cases where the principal sum claimed does not exceed one hundred dollars, and may sit at any time for the trial of such cases; but in cases where the sum claimed is more than fifty dollars, there may be an appeal to the superior court, under such regulations as may be prescribed by law.

Three. There shall be no appeal to a jury from the decision of a justice of the peace, except as provided in the foregoing paragraph.

Four. Notaries public may be appointed and commissioned by the governor, not to exceed one for each militia district, for a term of four years, and shall be *ex-officio* justices of the peace.

SEC. 7. One. There shall be an attorney-general of the State, whose official term, except when appointed to fill an unexpired term, shall be four years.

Two. It shall be the duty of the attorney-general to act as the legal adviser of the executive department, to represent the State in all civil and criminal cases in the supreme and superior courts when required by the governor, and to perform such other services as shall be required of him by law.

SEC. 8. One. There shall be a solicitor-general for each judicial circuit, whose official term, except when appointed to fill an unexpired term, shall be four years.

Two. It shall be the duty of the solicitor-general to represent the State in all cases in the superior courts of his circuit, and in all cases taken up from his circuit to the supreme court, and to perform such other services as shall be required of him by law.

SEC. 9. One. The judges of the supreme and the superior courts, the attorney-general, solicitors-general, and the district judges and attorneys, shall be appointed by the governor, with the advice and consent of the senate, and shall be removable by the governor on the address of two-thirds of each branch of the general assembly, or by impeachment and conviction thereon.

Two. Justices of the peace shall be elected by the legal voters in their respective districts, and shall be commissioned by the governor. They shall be removable on conviction for malpractice in office.

SEC. 10. One. The judges of the supreme and superior courts and the attorney and solicitors general shall have, out of the State treasury, adequate and honorable salaries on the specie basis, which shall not be increased or diminished during their continuance in office. The district judges and district attorneys shall receive, out of the treasuries of the several counties of their districts, adequate compensation, on the specie basis, which shall not be increased or diminished during their term of office; but said judges shall not receive any other perquisites or emoluments whatever from parties or others on account of any duty required of them.

Two. The general assembly shall provide for the equitable apportionment of the compensation of the district judges and attorneys between the counties composing their districts, and shall require the moneys arising from fines and forfeitures in the district courts to be paid into the treasuries thereof.

Three. No person shall be judge of the supreme or superior courts, or attorney-general, unless at the time of his appointment he shall have attained the age of thirty years, and shall have been a citizen of this State three years, and have practised law for seven years.

SEC. 11. One. No total divorce shall be granted except on the concurrent verdicts of two juries. When a divorce is granted, the jury rendering the final verdict shall determine the rights and disabilities of the parties, subject to the revision of the court.

SEC. 12. One. Divorce cases shall be tried in the county where the defendant resides, if a resident of this State.

Two. Criminal cases shall be tried in the county where the crime was committed, except cases in the superior courts when the presiding judge is satisfied that an impartial jury cannot be obtained in such county.

Three. Cases respecting titles to land shall be tried in the county where the land lies, except where a single tract is divided by a county-line, in which case the superior court of either county shall have jurisdiction.

Four. Equity cases shall be tried in the county where a defendant resides against whom substantial relief is prayed.

Five. Suits against joint promisors, copartners, or joint trespassers, residing in different counties, may be tried in either county.

Six. Suits against the maker and indorser of promissory notes, or other like instruments, residing in different counties, shall be tried in the county where the maker resides.

Seven. All other cases shall be tried in the county where the defendant resides.

SEC. 13. One. The right of trial by jury, except where it is otherwise provided in this constitution, shall remain inviolate.

Two. The general assembly shall provide by law for the selection of upright and intelligent persons to serve as jurors. There shall be no distinction between the classes of persons who compose grand and petit juries. Jurors shall receive adequate compensation for their services, to be prescribed by law.

SEC. 14. One. The courts heretofore existing in this State styled inferior courts are abolished, and their unfinished business, and the duties of the justices thereof, are transferred to such tribunals as the general assembly may designate.

SEC. 15. One. The general assembly shall have power to provide for the creation of county commissioners in such counties as may require them, and to define their duties.

SEC. 16. One. All courts not specially mentioned by name in the first section of this article may be abolished in any county, at the discretion of the general assembly, and the county courts now existing in Georgia are hereby abolished.

SEC. 17. One.* No court or officer shall have, nor shall the general assembly give,

* The act of Congress, approved June 25, 1868, admitting the State of Georgia to representation in Congress, amended and abridged this subdivision, which in the original constitution read as follows:

"SEC. 17. One. No court in this State shall have jurisdiction to try or determine any suit against any resident of this State upon any contract or agreement made or implied, or upon any contract made in renewal of any debt existing prior to the 1st day of June, 1865; nor shall any court or ministerial officer of this State have authority to enforce any judgment, execution, or decree rendered or issued upon any contract or agreement made or implied, or upon any contract in renewal of a debt existing prior to the 1st day of June, 1865, except in the following cases:

"1. In suits against trustees, where the trust-property is in the hands of the trustee, or has been invested by him in other specific effects now in his hands, and in suits by the vendor of real estate against the vendee, where not more than one-third of the purchase-money has been paid, and the vendee is in possession of the land or specific effects for which he has sold it, and he refuses to deliver the land or said effects to the vendor. In such cases the courts and officers may entertain jurisdiction and enforce judgments against said trust-property or land or effects.

"2. In suits for the benefit of minors by trustees appointed before the 1st day of June, 1865.

"3. In suits against corporations in their corporate capacity, but not so as to enforce the debt against the stockholders or officers thereof in their individual capacity.

"4. In suits by charitable or literary institutions for money loaned, property (other than slaves) sold, or services rendered by such institutions.

"5. In suits on debts due for mechanical or manual labor when the suit is by the mechanic or laborer.

"6. In cases when the debt is set up by way of defence, and the debt set up exceeds any debt due by defendant to plaintiff of which the courts are denied jurisdiction.

"7. In all other cases in which the general assembly shall, by law, give the said courts and officers jurisdiction: *Provided*, That no court or officer shall have, nor shall the general assembly give, jurisdiction or authority to try or give judgment on or enforce any debt, the consideration of which was a slave or slaves, or the hire thereof."

jurisdiction or authority to try or give judgment on or enforce any debt, the consideration of which was a slave or slaves, or the hire thereof.

Two. All contracts made and not executed during the late rebellion, with the intention and for the purpose of aiding and encouraging said rebellion, or where it was the purpose and intention of any one of the parties to such contract to aid or encourage such rebellion, and that fact was known to the other party, whether said contract was made by any person or corporation with the State or Confederate States, or by a corporation with a natural person, or between two or more natural persons, are hereby declared to have been and to be illegal, and all bonds, deeds, promissory notes, bills, or other evidences of debt, made or executed by the parties to such contract, or either of them, in connection with such illegal contract, or as the consideration therefor or in furtherance thereof, are hereby declared null and void, and shall be so held in all courts in this State when attempt shall be made to enforce any such contract or give validity to any such obligation or evidence of debt. And in all cases when the defendant or any one interested in the event of the suit will make a plea, supported by his or her affidavit, that he or she has reason to believe that the obligation or evidence of indebtedness upon which the suit is predicated, or some part thereof, has been given or used for the illegal purpose aforesaid, the burden of proof shall be upon the plaintiff to satisfy the court and jury that the bond, deed, note, bill, or other evidence of indebtedness upon which said suit is brought, is or are not, nor is any part thereof, founded upon or in any way connected with any such illegal contract, and has not been used in aid of the rebellion, and the date of such bond, deed, note, bill, or other evidence of indebtedness shall not be evidence that it has or has not, since its date, been issued, transferred, or used in aid of the rebellion.*

ARTICLE VI.

EDUCATION.

One. The general assembly, at its first session after the adoption of this constitution, shall provide a thorough system of general education, to be forever free to all children of the State, the expense of which shall be provided for by taxation or otherwise.

Two. The office of State school commissioner is hereby created. He shall be appointed by the governor with the consent of the senate, and shall hold his office for the same term as the governor. The general assembly shall provide for the said commissioner a competent salary and necessary clerks. He shall keep his office at the seat of government.

Three. The poll-tax allowed by this constitution, any educational fund now belonging to this State, except the endowment of and debt due to the State university, or that may hereafter be obtained in any way, a special tax on shows and exhibitions, and on the sale of spirituous and malt liquors, which the general assembly is hereby authorized to assess, and the proceeds from the commutation for militia service, are hereby set apart and devoted to the support of common schools. And if the provisions herein made shall, at any time, prove insufficient, the general assembly shall have power to levy such general tax upon the property of the State as may be necessary for the support of said school-system. And there shall be established, as soon as practicable, one or more common schools in each school-district in this State.

* The act of Congress, approved June 25, 1868, admitting the State of Georgia to representation in Congress, declared null and void a third subdivision of section seventeen of the fifth article, which in the original constitution read as follows:

"Three. It shall be in the power of the general assembly to assess and collect upon all debts, judgments, or causes of action when due, founded on any contract made or implied before the 1st day of June, 1865, in the hands of any one in his own right, or as trustee, agent, or attorney of another, on or after the 1st day of January, 1868, a tax of not exceeding twenty-five per cent., to be paid by the creditor on pain of the forfeiture of the debt, but chargeable by him as to one-half thereof against the debtor, and collectible with the debt: *Provided*, That this tax shall not be collected if the debt or cause of action be abandoned or settled without legal process, or, if in judgment, be settled without levy and sale: *And provided further*, That this tax shall not be levied so long as the courts of this State shall not have jurisdiction of such debts or causes of action."

ARTICLE VII.

HOMESTEAD AND EXEMPTION.

SECTION 1. One. Each head of a family, or guardian, or trustee, of a family of minor children, shall be entitled to a homestead of realty to the value of \$2,000 in specie, and personal property to the value of \$1,000 in specie, both to be valued at the time they are set apart. And no court or ministerial officer in this State shall ever have jurisdiction or authority to enforce any judgment, decree, or execution against said property so set apart, including such improvements as may be made thereon, from time to time, except for taxes, money borrowed and expended in the improvement of the homestead, or for the purchase-money of the same, and for labor done thereon, or material furnished therefor, or removal of encumbrances thereon. And it shall be the duty of the general assembly, as early as practicable, to provide, by law, for the setting apart and valuation of said property, and to enact laws for the full and complete protection and security of the same to the sole use and benefit of said families as aforesaid.

Two. All property of the wife, in her possession at the time of her marriage, and all property given to, inherited, or acquired by her, shall remain her separate property, and not be liable for the debts of her husband.

ARTICLE VIII.

MILITIA.

SECTION 1. The militia shall consist of all able-bodied male persons between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or this State; and shall be organized, officered, armed, equipped, and trained in such manner as may be provided by law; subject to the paramount authority of Congress over this subject.

SEC. 2. Volunteer companies of cavalry, infantry, or artillery may be formed in such manner, and with such restrictions, as may be provided by law.

SEC. 3. No person conscientiously opposed to bearing arms shall be compelled to do militia duty, but such person shall pay an equivalent for exemption; the amount to be prescribed by law and appropriated to the common-school fund.

ARTICLE IX.

COUNTY OFFICERS.

One. The county officers recognized as existing by the laws of this State, and not abolished by this constitution, shall, where not otherwise provided for in this constitution, be elected by the qualified voters of their respective counties or districts, and shall hold their offices for two years. They shall be removable on conviction for malpractice in office, or on the address of two-thirds of the senate.

ARTICLE X.

SEAT OF GOVERNMENT.

One. The seat of government of this State, from and after the date of the ratification of this constitution, shall be in the city of Atlanta, and the general assembly shall provide for the erection of a new capitol, and such other buildings as the public welfare may require.

Two. The general assembly shall have power to provide for the temporary removal of the seat of government in case of invasion, pestilence, or other emergency.

ARTICLE XI.

THE LAWS OF GENERAL OPERATION IN FORCE IN THIS STATE ARE—

One. As the supreme law, the Constitution of the United States, the laws of the United States in pursuance thereof, and all treaties made under the authority of the United States.

Two. As next in authority thereto, this constitution.

Three. In subordination to the foregoing, all acts passed by any legislative body, sitting in this State as such, since the 19th day of January, 1861, including that body of laws known as the code of Georgia, and the acts amendatory thereof, or passed since that time, which said code and acts are embodied in the printed book known as "Irwin's Code;" and also so much of the common and statute laws of England, and of the statute laws of Georgia, as were in force in this State on the 19th day of December, 1860, as are not superseded by said code, though not embodied therein, except so much of the said several statutes, code, and laws as may be inconsistent with the supreme law herein recognized, or may have been passed in aid of the late rebellion against the United States, or may be obsolete, or may refer to persons held in slavery, which excepted laws are inoperative and void; and any future general assembly shall be competent to alter or repeal (if not herein prohibited) any portion of the laws declared to be of force in this third specification of this clause of this article; and if in any of said laws herein declared of force the word "Confederate" occurs before the word "States," such law is hereby amended by substituting the word "United" for the word "Confederate."

Four. Local and private acts passed for the benefit of counties, cities, towns, corporations, and private persons, not inconsistent with the supreme law, nor with this constitution, and which have not expired or been repealed, shall have the force of statute law, subject to judicial decision as to their validity when passed, and to any limitations imposed by their own terms.

Five. All rights, privileges, and immunities which may have vested in, or accrued to, any person or persons, or corporation, in his, her, or their own right, or in any fiduciary capacity, under any act of any legislative body sitting in this State as such, or of any decree, judgment, or order of any court, sitting in this State, under the laws then of force and operation therein, and recognized by the people as a court of competent jurisdiction, since the 19th day of January, 1861, shall be held inviolate by all the courts of this State, unless attacked for fraud, or unless otherwise declared invalid by, or according to, this constitution.

Six. The records, dockets, books, papers, and proceedings of any court or office existing in this State by the laws thereof on the 19th of January, 1861, or purporting to exist by said laws, and recognized and generally obeyed by the people, as such, since the said time, and before the several courts and officers provided for by this constitution shall have gone into actual operation, shall be transferred to the several courts and offices of the same name or functions by this constitution provided for, and shall have force and be executed, perfected, and performed therein, and thereby, as follows, and not otherwise, to wit:

Final judgments, decrees, proceedings, and acts fully executed and performed, or not requiring performance or execution, shall have full force and effect as though no interruption had taken place in the legal succession of said courts and offices, except as herein otherwise provided. Proceedings not final, and judgments and decrees not fully executed or performed, shall proceed and be performed in such cases, and such cases only, as this constitution, or the laws made in pursuance thereof, confer jurisdiction and authority over the causes of actions on which said cases, judgments, decrees, or proceedings, civil or criminal, are founded: *Provided*, That all said judgments, decrees, and proceedings shall be subject to be set aside, or reversed, or vacated, by proceedings in the several courts having custody of the records, as though they were the judgments of said courts, and shall be subject always to be explained as to the meaning of the word dollar or dollars, as used in the same, and no motion for a new trial, bill of review, or other proceeding, to vacate any judgment, order, or decree,

made since the 19th of January, 1861, by any of said courts, for fraud, illegality, or error of law, shall be denied, by reason of the same not having been moved in time; provided said motion or application is made in twelve months from the adoption of this constitution.

Seven. The books, papers, and proceedings of the inferior courts shall be transferred to, and remain in, the control of the ordinaries, who shall perform the duties of said courts until otherwise provided by law. The books, papers, and proceedings of the county courts, and the unfinished business thereof, shall be transferred to the superior courts, and the same shall be finished and performed by the said superior courts and the officers thereof, in such cases, and in such cases only, as the said courts are, by this constitution or the laws made in pursuance thereof, granted jurisdiction over the subject-matter or debts on which said cases and judgments, civil or criminal, are founded.

Eight. The cases pending and the judgments had and made in the city courts of Savannah and Augusta, and in the various justices' courts in this State, shall be finished and the judgments performed by the city courts, and officers and justices provided by this constitution in such cases, and such only, as by this constitution jurisdiction is given to said courts and officers over the causes of action on which they are founded.

Nine. The judgments and proceedings of courts, and acts of officers within their jurisdiction, as provided by law, shall be valid notwithstanding the judges of said courts or the said officers were appointed by the military authorities of the United States, and any of said judgments, or acts, or proceedings made or done under or by virtue of, or in accordance with, the orders of said military authorities, duly made, are as valid as if done under a law of this State.

Ten. These several acts of confirmation shall not be construed to divest any vested right, nor to make any act criminal otherwise not criminal, but they shall be construed as acts of peace and to prevent injustice: *Provided*, That nothing in this constitution shall be so construed as to make valid any acts done by, or before any such *de facto* officer, which would, by legalizing such acts, render that criminal which was not criminal when done, or cause any act not legally criminal when done to become criminal by giving validity to such act after it was done; but all such acts shall be held by the courts to be null and void.

Eleven. Should this constitution be ratified by the people, and Congress accept the same with any qualifications or conditions, the government herein provided for, and the officers elected shall nevertheless exist and continue in the exercise of their several functions, as the government of this State, so far as the same may be consistent with the action of the United States in the premises.

Twelve. The ordinances of this convention on the subject of the first election, and the first general assembly, shall have the force of laws, until they expire by their own limitation, and all other ordinances of a mere legislative character shall have the force of laws, until otherwise provided by the general assembly.

ARTICLE XII.

AMENDMENTS TO THE CONSTITUTION.

One. This constitution may be amended by a two-thirds vote of two successive legislatures, and by a submission of the amendment to the qualified voters for final ratification. But the general assembly shall not call a convention of the people in the election of delegates to which any person qualified to vote by this constitution shall be disqualified. And the representation in said convention shall be based on population. Nor shall the right of suffrage ever be taken from any person qualified by this constitution to vote.

JOSIAH R. PARROTT, *President*.

P. M. SHEBLEY, *Secretary*.

ILLINOIS.

VIRGINIA ACT OF CESSION—1783.*

SECTION 1. Whereas the Congress of the United States did, by their act of the 6th day of September, in the year 1780, recommend to the several States in the Union, having claims to waste and unappropriated lands in the western country, a liberal cession to the United States of a portion of their respective claims for the common benefit of the Union:

SEC. 2. And whereas this commonwealth did, on the 2d day of January, in the year 1781, yield to the Congress of the United States, for the benefit of the said States, all right, title, and claim which the said commonwealth had to the territory northwest of the river Ohio, subject to the conditions annexed to the said act of cession:

SEC. 3. And whereas the United States in Congress assembled have, by their act of the 13th of September last, stipulated the terms on which they agree to accept the cession of this State, should the legislature approve thereof, which terms, although they do not come fully up to the propositions of this commonwealth, are conceived, on the whole, to approach so nearly to them as to induce this State to accept thereof, in full confidence that Congress will, in justice to this State for the liberal cession she hath made, earnestly press upon the other States claiming large tracts of waste and uncultivated territory the propriety of making cessions equally liberal for the common benefit and support of the Union:

Be it enacted by the general assembly, That it shall and may be lawful for the delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and the said delegates, or such of them so assembled, are hereby fully authorized and empowered, for and on behalf of this State, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over unto the United States, in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, subject to the terms and conditions contained in the before-recited act of Congress of the 13th day of September last, that is to say: Upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than one hundred nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; and that the States so formed shall be distinct republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence as the other States; that the necessary and reasonable expenses incurred by this State in subduing any British posts, or in maintaining forts or garrisons within and for the defence, or in acquiring any part of the territory so ceded or relinquished, shall be fully reimbursed by the United States; and that one commissioner shall be appointed by Congress, one by this commonwealth, and another by those two commissioners, who, or a majority of them, shall be authorized and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this State, which they shall judge to be comprised within the intent and meaning of the act of Congress of the 10th of October, 1780, respecting such expenses. That the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have professed them-

* This act was passed on December 20, 1783, by the legislature of Virginia, to authorize the delegates of that State in Congress to convey to the United States all the rights of that commonwealth to the territory northwest of the river Ohio.

selves citizens of Virginia, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity, not exceeding one hundred and fifty thousand acres, of land, promised by this State, shall be allowed and granted to the then Colonel, now General, George Rogers Clarke, and to the officers and soldiers of his regiment who marched with him when the posts of Kaskaskies and Saint Vincents were reduced, and to the officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the northwest side of the Ohio as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion according to the laws of Virginia. That in case the quantity of good lands on the southeast side of the Ohio, upon the waters of Cumberland River, and between the Green River and Tennessee River, which have been reserved by law for the Virginia troops upon continental establishment, should, from the North Carolina line bearing in further upon the Cumberland lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops in good lands, to be laid off between the rivers Scioto and Little Miami, on the northwest side of the river Ohio, in such proportions as have been engaged to them by the laws of Virginia. That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American Army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever: *Provided*, That the trust hereby reposed in the delegates of this State shall not be executed unless three of them, at least, are present in Congress.

DEED OF CESSION FROM VIRGINIA—1784.

To all who shall see these presents, we, Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, the underwritten delegates for the commonwealth of Virginia in the Congress of the United States of America, send greeting:

Whereas the general assembly of the commonwealth of Virginia, at their sessions begun on the 20th day of October, 1783, passed an act, entitled "An act to authorize the delegates of this State in Congress to convey to the United States in Congress assembled all the right of this commonwealth to the territory northwestward of the river Ohio, in these words following, to wit," [here follows the act of cession:]

And whereas the said general assembly, by their resolution of June 6, 1783, had constituted and appointed us, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, delegates to represent the said commonwealth in Congress, for one year from the first Monday in November then next following, which resolution remains in full force: Now, therefore, know ye, that we, the said Thomas Jefferson, Samuel Hardy, Arthur Lee, and James Monroe, by virtue of the power and authority committed to us by the act of the said general assembly of Virginia before recited, and in the name, and for and on behalf of, the said commonwealth, do, by these presents, convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said States, Virginia inclusive, all right, title, and claim, as well of soil as of jurisdiction, which the said commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio, to and for the uses and purposes and on the conditions of the said recited act. In testimony whereof we have hereunto subscribed our names and affixed our seals, in Congress, the 1st day of March, in the year of our Lord 1784, and of the Independence of the United States the eighth.

THE NORTHWEST TERRITORIAL GOVERNMENT—1787.

[THE CONFEDERATE CONGRESS, JULY 13, 1787.]

An Ordinance for the government of the territory of the United States northwest of the river Ohio.

SECTION 1. *Be it ordained by the United States in Congress assembled,* That the said territory, for the purpose of temporary government, be one district, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

SEC. 2. *Be it ordained by the authority aforesaid,* That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among, their children and the descendants of a deceased child in equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be, (being of full age,) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers, shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

SEC. 3. *Be it ordained by the authority aforesaid,* That there shall be appointed, from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

SEC. 4. There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months to the Secretary of Congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common-law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

SEC. 5. The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the

general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

SEC. 6. The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

SEC. 7. Previous to the organization of the general assembly the governor shall appoint such magistrates, and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

SEC. 8. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed, from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

SEC. 9. So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly: *Provided*, That for every five hundred free male inhabitants there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature: *Provided*, That no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee-simple, two hundred acres of land within the same: *Provided also*, That a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

SEC. 10. The representatives thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

SEC. 11. The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum; and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected the governor shall appoint a time and place for them to meet together, and when met they shall nominate ten persons, resident in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of the council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the

council, shall be referred to the governor for his assent; but no bill, or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly when, in his opinion, it shall be expedient.

SEC. 12. The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the President of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

SEC. 13. And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of States, and permanent government therein, and for their admission to a share in the Federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

SEC. 14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

ARTICLE I.

No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship, or religious sentiments, in the said territory.

ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writs of *habeas corpus*, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts, or engagements, *bona fide*, and without fraud previously formed.

ARTICLE III.

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE IV.

The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made;

and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the Federal debts, contracted, or to be contracted, and a proportional part of the expenses of government to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district, or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and Saint Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ARTICLE V.

There shall be formed in the said territory not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to wit: The western State, in the said territory, shall be bounded by the Mississippi, the Ohio, and the Wabash Rivers; a direct line drawn from the Wabash and Post Vincents, due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: *Provided, however,* And it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government: *Provided,* The constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles, and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: *Provided always,* That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby, repealed, and declared null and void.

Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord 1787, and of their sovereignty and independence the twelfth.

VIRGINIA ACT OF RATIFICATION—1788.*

Whereas the United States in Congress assembled did, on the 7th day of July, in the year of our Lord 1786, state certain reasons, showing that a division of the territory which hath been ceded to the said United States by this commonwealth into States, in conformity to the terms of cession, should the same be adhered to, would be attended with many inconveniences, and did recommend a revision of the act of cession, so far as to empower Congress to make such a division of the said territory into distinct and republican States, not more than five nor less than three in number, as the situation of that country and future circumstances might require; and the said United States in Congress assembled have, in an ordinance for the government of the territory northwest of the river Ohio, passed on the 13th of July, 1787, declared the following as one of the articles of compact between the original States and the people and States in the said territory, viz, [here article 5 of the ordinance of 1787 is recited;]

And it is expedient that this Commonwealth do assent to the proposed alteration, so as to ratify and confirm the said article of compact between the original States and the people and States in the said territory :

Be it therefore enacted by the general assembly, That the afore-recited article of compact between the original States and the people and States in the territory northwest of Ohio river be, and the same is hereby, ratified and confirmed, anything to the contrary in the deed of cession of the said territory by this commonwealth to the United States notwithstanding.

THE NORTHWEST TERRITORIAL GOVERNMENT—1789.

[FIRST CONGRESS, FIRST SESSION.]

An Act to provide for the government of the territory northwest of the river Ohio.

Whereas, in order that the ordinance of the United States in Congress assembled, for the government of the territory northwest of the river Ohio, may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States :

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which, by the said ordinance, any information is to be given or communication made by the governor of the said territory to the United States in Congress assembled, or to any of their officers, it shall be the duty of the said governor to give such information and to make such communication to the President of the United States; and the President shall nominate, and, by and with the advice and consent of the Senate shall appoint, all officers which, by the said ordinance, were to have been appointed by the United States in Congress assembled, and all officers so appointed shall be commissioned by him; and in all cases where the United States in Congress assembled might, by the said ordinance, revoke any commission, or remove from any office, the President is hereby declared to have the same powers of revocation and removal.

SEC. 2. *And be it further enacted,* That in case of the death, removal, resignation, or necessary absence of the governor of the said territory, the secretary thereof shall be, and he is hereby, authorized and required to execute all the powers and perform all the duties of the governor during the vacancy occasioned by the removal, resignation, or necessary absence of the said governor.

* The act of Virginia of December 18, 1789, concerning the erection of Kentucky into an independent State, contained the following proviso :

"SEC. 7. The use and navigation of the river Ohio, so far as the territory of the proposed State, or the territory which shall remain within the limits of this commonwealth, lies therein, shall be free and common to the citizens of the United States; and the respective jurisdictions of this commonwealth and of the proposed State, on the river as aforesaid, shall be concurrent only with the States which may possess the opposite shores of the said river."

THE NORTHWEST TERRITORIAL GOVERNMENT—1800.

[SIXTH CONGRESS, FIRST SESSION.]

An Act to divide the territory of the United States northwest of the Ohio into two separate governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the fourth day of July next, all that part of the territory of the United States northwest of the Ohio River which lies to the westward of a line beginning at the Ohio, opposite to the mouth of Kentucky River, and running thence to Fort Recovery, and thence north until it shall intersect the territorial line between the United States and Canada, shall, for the purposes of temporary government, constitute a separate territory, and be called the Indiana Territory.

SEC. 2. *And be it further enacted,* That there shall be established within the said Territory a government in all respects similar to that provided by the ordinance of Congress passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory of the United States northwest of the river Ohio; and the inhabitants thereof shall be entitled to, and enjoy, all and singular the rights, privileges, and advantages granted and secured to the people by the said ordinance.

SEC. 3. *And be it further enacted,* That the officers for the said Territory, who by virtue of this act shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations as by the ordinance aforesaid and the laws of the United States have been provided and established for similar officers in the territory of the United States northwest of the river Ohio. And the duties and emoluments of superintendent of Indian affairs shall be united with those of governor: *Provided,* That the President of the United States shall have full power, in the recess of Congress, to appoint and commission all officers herein authorized; and their commissions shall continue in force until the end of the next session of Congress.

SEC. 4. *And be it further enacted,* That so much of the ordinance for the government of the territory of the United States northwest of the Ohio River as relates to the organization of a general assembly therein, and prescribes the powers thereof, shall be in force and operate in the Indiana Territory, whenever satisfactory evidence shall be given to the governor thereof that such is the wish of a majority of the freeholders, notwithstanding there may not be therein five thousand free male inhabitants of the age of twenty-one years and upwards: *Provided,* That until there shall be five thousand free male inhabitants of twenty-one years and upwards in said Territory, the whole number of representatives to the general assembly shall not be less than seven nor more than nine, to be apportioned by the governor to the several counties in said Territory agreeably to the number of free males of the age of twenty-one years and upwards which they may respectively contain.

SEC. 5. *And be it further enacted,* That nothing in this act contained shall be construed so as in any manner to affect the government now in force in the territory of the United States northwest of the Ohio River, further than to prohibit the exercise thereof within the Indiana Territory, from and after the aforesaid fourth day of July next: *Provided,* That whenever that part of the territory of the United States which lies to the eastward of a line beginning at the mouth of the Great Miami River, and running thence due north to the territorial line between the United States and Canada, shall be erected into an independent State and admitted into the Union on an equal footing with the original States, thenceforth said line shall become and remain per-

manently the boundary-line between such State and the Indiana Territory ; anything in this act contained to the contrary notwithstanding.

SEC. 6. *And be it further enacted*, That until it shall be otherwise ordered by the legislatures of the said territories respectively, Chillicothe, on Scioto River, shall be the seat of the government of the territory of the United States northwest of the Ohio River ; and that Saint Vincennes, on the Wabash River, shall be the seat of the government for the Indiana Territory.

APPROVED, May 7, 1800.

THE TERRITORIAL GOVERNMENT OF ILLINOIS—1809.

[TENTH CONGRESS, SECOND SESSION.]

An Act for dividing the Indiana Territory into two separate governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of March next, all that part of the Indiana Territory which lies west of the Wabash River, and a direct line drawn from the said Wabash River and Post Vincennes due north to the territorial line between the United States and Canada, shall, for the purpose of temporary government, constitute a separate Territory, and be called Illinois.

SEC. 2. *And be it further enacted*, That there shall be established within the said Territory a government in all respects similar to that provided by the ordinance of Congress, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven, for the government of the territory of the United States northwest of the river Ohio ; and by an act passed on the seventh day of August, one thousand seven hundred and eighty-nine, entitled "An act to provide for the government of the territory northwest of the river Ohio ;" and the inhabitants thereof shall be entitled to and enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the river Ohio by the said ordinance.

SEC. 3. *And be it further enacted*, That the officers for the said Territory, who, by virtue of this act, shall be appointed by the President of the United States, by and with the advice and consent of the Senate, shall respectively exercise the same powers, perform the same duties, and receive for their services the same compensations as by the ordinance aforesaid and the laws of the United States have been provided and established for similar officers in the Indiana Territory. And the duties and emoluments of superintendent of Indian affairs shall be united with those of governor : *Provided*, That the President of the United States shall have full power, in the recess of Congress, to appoint and commission all officers herein authorized, and their commissions shall continue in force until the end of the next session of Congress.

SEC. 4. *And be it further enacted*, That so much of the ordinance for the government of the territory of the United States northwest of the Ohio River, as relates to the organization of a general assembly therein, and prescribes the powers thereof, shall be in force and operate in the Illinois Territory, whenever satisfactory evidence shall be given to the governor thereof that such is the wish of a majority of the freeholders, notwithstanding there may not be therein five thousand free male inhabitants of the age of twenty-one years and upwards : *Provided*, That until there shall be five thousand free male inhabitants of twenty-one years and upwards in said Territory, the whole number of representatives to the general assembly shall not be less than seven, nor more than nine, to be apportioned by the governor to the several counties in the said Territory, agreeably to the number of free males of the age of twenty-one years and upwards, which they may respectively contain.

SEC. 5. *And be it further enacted*, That nothing in this act contained shall be construed so as in any manner to affect the government now in force in the Indiana Territory, further than to prohibit the exercise thereof within the Illinois Territory from and after the aforesaid first day of March next.

SEC. 6. *And be it further enacted*, That all suits, process, and proceedings which, on the first day of March next, shall be pending in the court of any county which shall be included within the said Territory of Illinois, and also all suits, process, and proceedings which, on the said first day of March next, shall be pending in the general court of the Indiana Territory, in consequence of any writ of removal, or order for trial at bar, and which had been removed from any of the counties included within the limits of the Territory of Illinois aforesaid, shall, in all things concerning the same, be proceeded on, and judgments and decrees rendered thereon, in the same manner as if the said Indiana Territory had remained undivided.

SEC. 7. *And be it further enacted*, That nothing in this act contained shall be so construed as to prevent the collection of taxes which may on the first day of March next be due to the Indiana Territory on lands lying in the said Territory of Illinois.

SEC. 8. *And be it further enacted*, That until it shall be otherwise ordered by the legislature of the said Illinois Territory, Kaskaskia, on the Mississippi River, shall be the seat of government for the said Illinois Territory.

APPROVED, February 3, 1809.

ENABLING ACT FOR ILLINOIS—1818.

[FIFTEENTH CONGRESS, FIRST SESSION.]

An Act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Illinois be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon the same footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted*, That the said State shall consist of all the territory included within the following boundaries, to wit: Beginning at the mouth of the Wabash River, thence up the same, and with the line of Indiana, to the northwest corner of said State; thence east, with the line of the same State, to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude forty-two degrees thirty minutes; thence west to the middle of the Mississippi River; and thence down, along the middle of that river, to the confluence with the Ohio River; and thence up the latter river, along its northwestern shore, to the beginning: *Provided*, That the convention hereinafter provided for, when formed, shall ratify the boundaries aforesaid; otherwise they shall be and remain as now prescribed by the ordinance for the government of the territory northwest of the river Ohio: *Provided also*, That the said State shall have concurrent jurisdiction with the State of Indiana on the Wabash River, so far as said river shall form a common boundary to both, and also concurrent jurisdiction on the Mississippi River, with any State or States to be formed west thereof, so far as said river shall form a common boundary to both.

SEC. 3. *And be it further enacted*, That all white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said Territory six months previous to the day of election, and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the said Territory, be, and they are hereby, authorized to choose representatives

to form a convention, who shall be apportioned amongst the several counties as follows:

From the county of Bond, two representatives.
 From the county of Madison, three representatives.
 From the county of Saint Clair, three representatives.
 From the county of Monroe, two representatives.
 From the county of Randolph, two representatives.
 From the county of Jackson, two representatives.
 From the county of Johnson, two representatives.
 From the county of Pope, two representatives.
 From the county of Gallatin, three representatives.
 From the county of White, two representatives.
 From the county of Edwards, two representatives.
 From the county of Crawford, two representatives.
 From the county of Union, two representatives.
 From the county of Washington, two representatives.
 And from the county of Franklin, two representatives.

And the election for the representatives aforesaid shall be holden on the first Monday of July next, and the two following days, throughout the several counties in the said Territory, and shall be conducted in the same manner and under the same regulations as prescribed by the laws of the said Territory regulating elections therein for members of the house of representatives.

SEC. 4. *And be it further enacted*, That the members of the convention, thus duly elected, be, and they are hereby, authorized to meet at the seat of government of the said Territory, on the first Monday of the month of August next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient at that time to form a constitution and State government for the people within the said Territory, and, if it be expedient, the convention shall be, and hereby is, authorized to form a constitution and State government; or, if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution or frame of government; which said representatives shall be chosen in such manner, and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance, and shall then form for the people of said Territory a constitution and State government: *Provided*, That the same, whenever formed, shall be republican, and not repugnant to the ordinance of the thirteenth of July, seventeen hundred and eighty-seven, between the original States and the people and States of the territory northwest of the river Ohio; excepting so much of said articles as relate to the boundaries of the States therein to be formed: *And provided also*, That it shall appear, from the enumeration directed to be made by the legislature of the said Territory, that there are within the proposed State not less than forty thousand inhabitants.

SEC. 5. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one Representative in the House of Representatives of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Illinois, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States and the said State:

First. That section numbered sixteen, in every township, and when such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State, for the use of the inhabitants of such township, for the use of schools.

Second. That all salt springs within such State, and the land reserved for the use of the same, shall be granted to the said State, for the use of the said State, and the same to be used under such terms, and conditions, and regulations as the legislature of the said State shall direct: *Provided*, The legislature shall never sell nor lease the same for a longer period than ten years at any one time.

Third. That five per cent. of the net proceeds of the lands lying within such State,

and which shall be sold by Congress, from and after the first day of January, one thousand eight hundred and nineteen, after deducting all expenses incident to the same, shall be reserved for the purposes following, viz: two-fifths to be disbursed, under the direction of Congress, in making roads leading to the State; the residue to be appropriated, by the legislature of the State, for the encouragement of learning, of which one-sixth part shall be exclusively bestowed on a college or university.

Fourth. That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature: *Provided always*, That the four foregoing propositions, herein offered, are on the conditions that the convention of the said State shall provide, by an ordinance irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of January, one thousand eight hundred and nineteen, shall remain exempt from any tax laid by order, or under any authority, of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale: *And further*, That the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees, or their heirs, remain exempt, as aforesaid, from all taxes, for the term of three years, from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said State, shall never be taxed higher than lands belonging to persons residing therein.

SEC. 7. *And be it further enacted*, That all that part of the territory of the United States lying north of the State of Indiana, and which was included in the former Indiana Territory, together with that part of the Illinois Territory which is situated north of and not included within the boundaries prescribed by this act to the State thereby authorized to be formed, shall be, and hereby is, attached to and made a part of the Michigan Territory, from and after the formation of the said State, subject, nevertheless, to be hereafter disposed of by Congress, according to the right reserved in the fifth article of the ordinance aforesaid; and the inhabitants therein shall be entitled to the same privileges and immunities, and subject to the same rules and regulations, in all respects, with the other citizens of the Michigan Territory.

APPROVED, April 18, 1818.

ORDINANCE ACCEPTING THE ENABLING ACT—1818.*

Whereas the Congress of the United States, in the act entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," passed the 18th of April, 1818, have offered to this convention, for their free acceptance or rejection, the following propositions, which, if accepted by the convention, are to be obligatory upon the United States, viz:

1. That section numbered 16 in every township, and, when such section has been sold or otherwise disposed of, other lands equivalent thereto and as contiguous as may be, shall be granted to the State for the use of the inhabitants of such township for the use of schools;
2. That all salt springs within such State, and the lands reserved for the use of the same, shall be granted to the said State for the use of the said State, and the same to be used under such terms and conditions and regulations as the legislature of said State shall direct: *Provided*, The legislature shall never sell nor lease the same for a longer period than ten years at any one time;
3. That five per cent. of the net proceeds of the lands lying within such State, and

* Adopted at Kaskaskia, 26th August, 1818, by the convention which framed the first constitution of Illinois.

which shall be sold by Congress from and after the 1st day of January, 1819, after deducting all expenses incident to the same, shall be reserved for the purposes following, viz: Two-fifths to be disbursed under the direction of Congress, in making roads leading to the State; the residue to be appropriated by the legislature of the State for the encouragement of learning, of which one-sixth part shall be exclusively bestowed on a college or university;

4. That thirty-six sections, or one entire township, which shall be designated by the President of the United States, together with the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature;

And whereas the four foregoing propositions are offered on the condition that this convention shall provide by ordinance, irrevocably, without the consent of the United States, that every and each tract of land sold by the United States, from and after the 1st day of January, 1819, shall remain exempt from any tax laid by order or under the authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale. [See chapter 89, section 36, and note.] And further, that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt as aforesaid from all taxes for the term of three years from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States residing without the said State shall never be taxed higher than lands belonging to persons residing therein:

Therefore, this convention, on behalf of and by the authority of the people of the State, do accept of the foregoing propositions; and do further ordain and declare that every and each tract of land sold by the United States, from and after the 1st day of January, 1819, shall remain exempt from any tax laid by order or under any authority of the State, whether for State, county, or township, or any purpose whatever, for the term of five years from and after the day of sale; and that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt, as aforesaid, from all taxes for the term of three years from and after the date of the patents respectively; and that all the lands belonging to the citizens of the United States, residing without the said State, shall never be taxed higher than lands belonging to persons residing therein. And this convention do further ordain and declare that the foregoing ordinance shall not be revoked without the consent of the United States.

CONSTITUTION OF ILLINOIS—1818.

The people of the Illinois Territory, having the right of admission into the General Government as a member of the Union, consistent with the Constitution of the United States, the ordinance of Congress of 1787, and the law of Congress approved April 18, 1818, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes," in order to establish justice, promote the welfare, and secure the blessings of liberty to themselves and their posterity, do, by their representatives in convention, ordain and establish the following constitution or form of government; and do mutually agree with each other to form themselves into a free and independent State, by the name of the State of Illinois. And they do hereby ratify the boundaries assigned to such State by the act of Congress aforesaid, which are as follows, to wit: Beginning at the mouth of the Wabash River; thence up the same and with the line of Indiana to the northwest corner of said State; thence east with the line of the same State to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude forty-two degrees and thirty minutes; thence west to the middle of the Mississippi River; and thence down along the middle of that river to its confluence with the Ohio River; and thence up the latter river, along its northwestern shore, to the beginning.

ARTICLE I.

SECTION 1. The powers of the government of the State of Illinois shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judiciary, to another.

SEC. 2. No person or collection of persons being one of those departments shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

ARTICLE II.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist in a senate and house of representatives, both to be elected by the people.

SEC. 2. The first election for senators and representatives shall commence on the third Thursday of September next, and continue for that and the two succeeding days; and the next election shall be held on the first Monday in August, 1820; and forever after elections shall be held once in two years, on the first Monday of August, in each and every county, at such places therein as may be provided by law.

SEC. 3. No person shall be a representative who shall not have attained the age of twenty-one years; who shall not be a citizen of the United States, and an inhabitant of this State; who shall not have resided within the limits of the county or district in which he shall be chosen twelve months next preceding his election, if such county or district shall have been so long erected; but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State, and who, moreover, shall not have paid a State or county tax.

SEC. 4. The senators, at their first session herein provided for, shall be divided by lot from their respective counties or districts, as near as can be, into two classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, and those of the second class at the expiration of the fourth year, so that one-half thereof, as near as possible, may be biennially chosen forever thereafter.

SEC. 5. The number of senators and representatives shall, at the first session of the general assembly holden after the returns herein provided for are made, be fixed by the general assembly, and apportioned among the several counties or districts to be established by law, according to the number of white inhabitants. The number of representatives shall not be less than twenty-seven, nor more than thirty-six, until the number of inhabitants within this State shall amount to one hundred thousand; and the number of senators shall never be less than one-third nor more than one-half of the number of representatives.

SEC. 6. No person shall be a senator who has not arrived at the age of twenty-five years, who shall not be a citizen of the United States, and who shall not have resided one year in the county or district in which he shall be chosen immediately preceding his election, if such county or district shall have been so long erected; but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State, and shall not, moreover, have paid a State or county tax.

SEC. 7. The senate and house of representatives, when assembled, shall each choose a speaker and other officers, (the speaker of the senate excepted.) Each house shall judge of the qualifications and elections of its members, and sit upon its own adjournments. Two-thirds of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and compel the attendance of absent members.

SEC. 8. Each house shall keep a journal of its proceedings and publish them. The yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

SEC. 9. Any two members of either house shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public, or to any individual, and have the reasons of their dissent entered on the journals.

SEC. 10. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 11. When vacancies happen in either house, the governor, or the person exercising the powers of governor, shall issue writs of election to fill such vacancies.

SEC. 12. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to or returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 13. Each house may punish, by imprisonment during its session, any person not a member who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence; provided such imprisonment shall not at any one time exceed twenty-four hours.

SEC. 14. The doors of each house and of committees of the whole shall be kept open, except in such cases as in the opinion of the house require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

SEC. 15. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 16. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house where such bill is so depending shall deem it expedient to dispense with this rule; and every bill having passed both houses shall be signed by the speakers of the respective houses.

SEC. 17. The style of the laws of this State shall be, "*Be it enacted by the people of the State of Illinois, represented in the general assembly.*"

SEC. 18. The general assembly of this State shall not allow the following officers of government greater or smaller annual salaries than as follows, until the year 1824: The governor, \$1,000; and the secretary of state, \$600.

SEC. 19. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during such time.

SEC. 20. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 21. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, at the rising of each session of the general assembly.

SEC. 22. The house of representatives shall have the sole power of impeaching, but a majority of all the members present must concur in an impeachment. All impeachments shall be tried by the senate, and when sitting for that purpose the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 23. The governor, and all other civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 24. The first session of the general assembly shall commence on the first Monday of October next, and forever after the general assembly shall meet on the first Monday in December next ensuing the election of the members thereof, and at no other period, unless as provided by this constitution.

SEC. 25. No judge of any court of law or equity, secretary of state, attorney-general, attorney for the State, register, clerk of any court of record, sheriff, or collector, member of either house of Congress, or person holding any lucrative office under the United States or this State, (provided that appointments in the militia, postmasters, or justices of the peace shall not be considered lucrative offices,) shall have a seat in the general assembly; nor shall any person holding any office of honor or profit under the Gov-

ernment of the United States hold any office of honor or profit under the authority of this State.

SEC. 26. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering upon the duties thereof, take an oath to support the Constitution of the United States and of this State, and also an oath of office.

SEC. 27. In all elections, all white male inhabitants above the age of twenty-one years, having resided in the State six months next preceeding the election, shall enjoy the right of an elector; but no person shall be entitled to vote except in the county or district in which he shall actually reside at the time of the election.

SEC. 28. All votes shall be given *viva voce* until altered by the general assembly.

SEC. 29. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 30. The general assembly shall have full power to exclude from the privilege of electing or being elected any person convicted of bribery, perjury, or any other infamous crime.

SEC. 31. In the year 1820, and every fifth year thereafter, an enumeration of all the white inhabitants of the State shall be made in such manner as shall be directed by law.

SEC. 32. All bills for raising a revenue shall originate in the house of representatives, subject, however, to amendment or rejection as in other cases.

ARTICLE III.

SECTION 1. The executive power of the State shall be vested in a governor.

SEC. 2. The first election of governor shall commence on the third Thursday of September next, and continue for that and the two succeeding days; and the next election shall be held on the first Monday of August, in the year of our Lord 1822. And forever after, elections for governor shall be held once in four years, on the first Monday in August. The governor shall be chosen by the electors of the members of the general assembly, at the same places and in the same manner that they shall respectively vote for members thereof. The returns for every election of governor shall be sealed up and transmitted to the seat of government by the returning officers, directed to the speaker of the house of representatives, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more be equal and highest in votes, then one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections shall be determined by both houses of the general assembly in such manner as shall be prescribed by law.

SEC. 3. The first governor shall hold his office until the first Monday of December, in the year of our Lord 1822, and until another governor shall be elected and qualified to office; and forever after the governor shall hold his office for the term of four years and until another governor shall be elected and qualified; but he shall not be eligible for more than four years in any term of eight years. He shall be at least thirty years of age, and have been a citizen of the United States thirty years; two years of which next preceeding his election he shall have resided within the limits of this State.

SEC. 4. He shall, from time to time, give the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

SEC. 5. He shall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

SEC. 6. The governor shall, at stated times, receive a salary for his services, which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 7. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

SEC. 8. When any officer, the right of whose appointment is, by this constitution, vested in the general assembly, or in the governor and senate, shall, during the recess, die, or his office by any means become vacant, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly.

SEC. 9. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to them, when assembled, the purpose for which they shall have been convened.

SEC. 10. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 11. There shall be elected in each and every county in the said State, by those who are qualified to vote for members of the general assembly, and at the same time and places where the election for such members shall be held, one sheriff and one coroner, whose election shall be subject to such rules and regulations as shall be prescribed by law. The said sheriffs and coroners respectively, when elected, shall continue in office two years, be subject to removal and disqualification, and such other rules and regulations as may be from time to time prescribed by law.

SEC. 12. In case of disagreement between two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he thinks proper, provided it be not a period beyond the next constitutional meeting of the same.

SEC. 13. A lieutenant-governor shall be chosen at every election for governor in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor and whom as lieutenant-governor.

SEC. 14. He shall, by virtue of his office, be speaker of the senate, have a right, when in committee of the whole, to debate and vote on all subjects, and whenever the senate are equally divided, to give the casting vote.

SEC. 15. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as speaker of the senate, the senators shall elect one of their own members as speaker for that occasion; and if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, or resign, or die, or be absent from the State, the speaker of the senate shall in like manner administer the government.

SEC. 16. The lieutenant-governor, while he acts as speaker of the senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives and no more; and during the time he administers the government as governor, he shall receive the same compensation which the governor would have received had he been employed in the duties of his office.

SEC. 17. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State during the recess of the general assembly, it shall be the duty of the secretary for the time being to convene the senate for the purpose of choosing a speaker.

SEC. 18. In case of an impeachment of the governor, his removal from office, death, refusal to qualify, resignation or absence from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until the time pointed out by this constitution for the election of governor shall arrive, unless the general assembly shall provide by law for the election of a governor to fill such vacancy.

SEC. 19. The governor for the time being, and the judges of the supreme court or a major part of them, together with the governor, shall be, and are hereby, constituted a council to revise all bills about to be passed into laws by the general assembly; and for that purpose shall assemble themselves from time to time when the general assembly shall be convened, for which nevertheless they shall not receive any salary or consideration under any pretence whatever; and all bills which have passed the senate and house of representatives shall, before they become laws, be presented to the said council for their revisal and consideration; and if, upon such revisal and considera-

tion, it should appear improper to the said council or a majority of them, that the bill should become a law of this State, they shall return the same, together with their objections thereto, in writing, to the senate or house of representatives, (in whichever the same shall have originated,) who shall enter the objections set down by the council at large in their minutes, and proceed to reconsider the said bill. But if, after such reconsideration, the said senate or house of representatives shall, notwithstanding the said objections, agree to pass the same by a majority of the whole number of members elected, it shall, together with the said objections, be sent to the other branch of the general assembly, where it shall also be reconsidered, and if approved by a majority of all the members elected, it shall become a law. If any bill shall not be returned within ten days after it shall have been presented, the same shall be a law, unless the general assembly shall by their adjournment, render a return of the said bill in ten days impracticable; in which case the said bill shall be returned on the first day of the meeting of the general assembly, after the expiration of the said ten days, or be a law.

SEC. 20. The governor shall nominate, and by and with the advice and consent of the senate appoint, a secretary of state, who shall keep a fair register of the official acts of the governor, and, when required, shall lay the same, and all papers, minutes, and vouchers relative thereto, before either branch of the general assembly, and shall perform such other duties as shall be assigned him by law.

SEC. 21. The State treasurer and public printer or printers for the State shall be appointed biennially by the joint vote of both branches of the general assembly: *Provided*, That during the recess of the same the governor shall have power to fill such vacancies as may happen in either of said offices.

SEC. 22. The governor shall nominate, and by and with the advice and consent of the senate appoint, all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for: *Provided, however*, That inspectors, collectors, and their deputies, surveyors of the highways, constables, jailers, and such inferior officers whose jurisdiction may be confined within the limits of the county, shall be appointed in such manner as the general assembly shall prescribe.

ARTICLE IV.

SECTION 1. The judicial power of this State shall be vested in one supreme court, and such inferior courts as the general assembly shall, from time to time, ordain and establish.

SEC. 2. The supreme court shall be holden at the seat of government, and shall have an appellate jurisdiction only, except in cases relating to the revenue, in cases of *mandamus*, and in such cases of impeachment as may be required to be tried before it.

SEC. 3. The supreme court shall consist in a chief-justice and three associates, any two of whom shall form a quorum. The number of justices may, however, be increased by the general assembly after the year 1824.

SEC. 4. The justices of the supreme court and the judges of the inferior courts shall be appointed by joint ballot of both branches of the general assembly, and commissioned by the governor, and shall hold their offices during good behavior until the end of the first session of the general assembly, which shall be begun and held after the 1st day of January, in the year of our Lord 1824, at which time their commissions shall expire; and until the expiration of which time the said justices, respectively, shall hold circuit courts in the several counties, in such manner, and at such times, and shall have and exercise such jurisdiction as the general assembly shall by law prescribe. But ever after the aforesaid period the justices of the supreme court shall be commissioned during good behavior, and the justices thereof shall not hold circuit courts unless required by law.

SEC. 5. The judges of the inferior courts shall hold their offices during good behavior, but for any reasonable cause, which shall not be sufficient ground for impeachment, both the judges of the supreme and inferior courts shall be removed from office on the address of two-thirds of each branch of the general assembly: *Provided*

always, That no member of either house of the general assembly, nor any person connected with a member by consanguinity or affinity, shall be appointed to fill the vacancy occasioned by such removal. The said justices of the supreme court, during their temporary appointment, shall receive an annual salary of one thousand dollars, payable quarter-yearly out of the public treasury. The judges of the inferior courts, and the justices of the supreme court who may be appointed after the end of the first session of the general assembly which shall be begun and held after the first day of January, in the year of our Lord 1824, shall have adequate and competent salaries, which shall not be diminished during their continuance in office.

SEC. 6. The supreme court, or a majority of the justices thereof, the circuit courts, or the justices thereof, shall, respectively, appoint their own clerks.

SEC. 7. All process, writs, and other proceedings shall run in the name of "The people of the State of Illinois." All prosecutions shall be carried on "In the name and by the authority of the people of the State of Illinois," and conclude "Against the peace and dignity of the same."

SEC. 8. A competent number of justices of the peace shall be appointed in each county, in such manner as the general assembly may direct, whose time of service, power, and duties shall be regulated and defined by law. And justices of the peace, when so appointed, shall be commissioned by the governor.

ARTICLE V.

SECTION 1. The militia of the State of Illinois shall consist of all free, male, able-bodied persons, (negroes, mulattoes, and Indians excepted,) resident in the State, between the age of eighteen and forty-five years, (except such persons as now are, or hereafter may be, exempted by the law of the United States or of this State,) and shall be armed, equipped, and trained as the general assembly may provide by law.

SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: *Provided*, Such person or persons shall pay an equivalent for such exemptions.

SEC. 3. Company, battalion, and regimental officers, staff officers excepted, shall be elected by the persons composing their several companies, battalions, and regiments.

SEC. 4. Brigadier and major generals shall be elected by the officers of their brigades and divisions respectively.

SEC. 5. All militia officers shall be commissioned by the governor, and may hold their commissions during good behavior, or until they arrive at the age of sixty years.

SEC. 6. The militia shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and elections of officers, and in going to and returning from the same.

ARTICLE VI.

SECTION 1. Neither slavery nor involuntary servitude shall hereafter be introduced into this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person, arrived at the age of twenty-one years, nor female person arrived at the age of eighteen years, be held to serve any person as a servant, under any indenture hereafter made, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a *bona-fide* consideration received or to be received for their service. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of this State, or if made in this State, where the term of service exceeds one year, be of the least validity, except those given in cases of apprenticeship.

SEC. 2. No person bound to labor in any other State shall be hired to labor in this State, except within the tract reserved for the salt-works near Shawneetown; nor even at that place for a longer period than one year at any one time; nor shall it be allowed there after the year 1825. Any violation of this article shall effect the emancipation of such person from his obligation to service.

SEC. 3. Each and every person who has been bound to service by contract or indenture in virtue of the laws of Illinois Territory heretofore existing, and in conformity to the provisions of the same, without fraud or collusion, shall be held to a specific performance of their contracts or indentures; and such negroes and mulattoes as have been registered in conformity with the aforesaid laws shall serve out the time appointed by said laws: *Provided, however,* That the children hereafter born of such person, negroes, or mulattoes, shall become free, the males at the age of twenty-one years, the females at the age of eighteen years. Each and every child born of indentured parents shall be entered with the clerk of the county in which they reside, by their owners, within six months after the birth of said child.

ARTICLE VII.

SECTION 1. Whenever two-thirds of the general assembly shall think it necessary to alter or amend this constitution, they shall recommend to the electors, at the next election of members to the general assembly, to vote for or against a convention; and if it shall appear that a majority of all the citizens of the State, voting for representatives, have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there may be in the general assembly, to be chosen in the same manner, at the same place, and by the same electors that choose the general assembly; and which convention shall meet within three months after said election, for the purpose of revising, altering, or amending this constitution.

ARTICLE VIII.

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare:

SECTION 1. That all men are born equally free and independent, and have certain inherent and indefeasible rights; among which are those of enjoying and defending life and liberty, and of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishments or modes of worship.

SEC. 4. That no religious test shall ever be required as a qualification to any office or public trust under this State.

SEC. 5. That elections shall be free and equal.

SEC. 6. That the right of the trial by jury shall remain inviolate.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

SEC. 8. That no freeman shall be imprisoned or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land. And all lands which have been granted as a common to the inhabitants of any town, hamlet, village, or corporation, by any person, body politic or corporate, or by any government having power to make such grant, shall forever remain common to the inhabitants of such town, hamlet, village, or corporation; and the said commons shall not be leased, sold, or divided under any pretence whatever: *Provided, however,* That nothing in this sec-

tion shall be so construed as to affect the commons of Cahokia or Prairie du Pont: *Provided also*, That the general assembly shall have power and authority to grant the same privileges to the inhabitants of the said villages of Cahokia and Prairie du Pont as are hereby granted to the inhabitants of other towns, hamlets, and villages.

SEC. 9. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his favor; and in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; and that he shall not be compelled to give evidence against himself.

SEC. 10. That no person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia when in actual service, in time of war, or public danger, by leave of the courts, for oppression or misdemeanor in office.

SEC. 11. No person shall, for the same offence, be twice put in jeopardy of his life or limb; nor shall any man's property be taken or applied to public use, without the consent of his representatives in the general assembly, nor without just compensation being made to him.

SEC. 12. Every person within this State ought to find a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain right and justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

SEC. 13. That all persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 14. All penalties shall be proportioned to the nature of the offence, the true design of all punishment being to reform, not to exterminate, mankind.

SEC. 15. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases where there is strong presumption of fraud.

SEC. 16. No *ex post facto* law, nor any law impairing the validity of contracts, shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 17. That no person shall be liable to be transported out of this State for any offence committed within the same.

SEC. 18. That a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

SEC. 19. That the people have a right to assemble together in a peaceable manner to consult for their common good, to instruct their representatives, and to apply to the general assembly for redress of grievances.

SEC. 20. That the mode of levying a tax shall be by valuation, so that every person shall pay a tax in proportion to the value of the property he or she has in his or her possession.

SEC. 21. That there shall be no other banks or moneyed institutions in this State but those already provided by law, except a State bank and its branches, which may be established and regulated by the general assembly of the State as they may think proper.

SEC. 22. The printing-presses shall be free to every person who undertakes to examine the proceedings of the general assembly or of any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 23. In prosecutions for the publication of papers investigating the official conduct of officers, or of men acting in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels the jury shall have the right of determining both the law and the fact, under the direction of the court, as in other cases.

SCHEDULE.

SECTION 1. That no inconveniences may arise from the change of a territorial to a permanent State government, it is declared by the convention that all rights, suits, actions, prosecutions, claims, and contracts, both as it respects individuals and bodies-corporate, shall continue as if no change had taken place in this government in virtue of the laws now in force.

SEC. 2. All fines, penalties, and forfeitures due and owing to the Territory of Illinois shall inure to the use of the State. All bonds executed to the governor, or to any other officer in his official capacity in the Territory, shall pass over to the governor or to the officers of the State, and their successors in office, for the use of the State, by him or by them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. No sheriff or collector of public moneys shall be eligible to any office in this State, until they have paid over, according to law, all moneys which they may have collected by virtue of their respective offices.

SEC. 4. There shall be elected in each county three county commissioners for the purpose of transacting all county business, whose time of service, power, and duties shall be regulated and defined by law.

SEC. 5. The governor, secretary, and judges, and all other officers under the territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution.

SEC. 6. The governor of this State shall make use of his private seal until a State seal shall be provided.

SEC. 7. The oaths of office herein directed to be taken may be administered by any justice of the peace until the general assembly shall otherwise direct.

SEC. 8. [Apportionment of senators and representatives.*]

SEC. 9. The president of the convention shall issue writs of election, directed to the several sheriffs of the several counties, or in case of the absence or disability of any sheriff, then to the deputy sheriff, and in case of the absence or disability of the deputy sheriff, then such writ to be directed to the coroner, requiring them to cause an election to be held for governor, lieutenant-governor, Representative to the present Congress of the United States, and members to the general assembly, and sheriffs and coroners in the respective counties; such election to commence on the third Thursday of September next, and to continue for that and the two succeeding days; and which election shall be conducted in the manner prescribed by the existing election laws of the Illinois Territory; and the said governor, lieutenant-governor, members of the general assembly, sheriffs, and coroners, then duly elected, shall continue to exercise the duties of their respective offices for the time prescribed by this constitution, and until their successor or successors are qualified, and no longer.

SEC. 10. An auditor of public accounts, an attorney-general, and such other officers for the State as may be necessary, may be appointed by the general assembly, whose duties may be regulated by law.

SEC. 11. It shall be the duty of the general assembly to enact such laws as may be necessary and proper to prevent the practice of duelling.

SEC. 12. All white male inhabitants above the age of twenty-one years, who shall be actual residents of this State at the signing of this constitution shall have a right to vote at the election to be held on the third Thursday and the two following days of September next.

SEC. 13. The seat of government for the State shall be at Kaskaskia until the gen-

* This section was changed by the following acts: Laws 1821, (14 Feb.,) 154. Resolution recommending a special session to make a new apportionment, Laws 1825, 186. Act in pursuance thereof: Laws 1826, (12 Jan.,) 45; Laws 1831, (7 Feb.,) 5; Laws 1836, (14 Jan.,) 268. Same repealed: R. S., 1845, 455; Laws 1841, (26 Feb.,) 23; Laws 1843, (3 Feb.,) 10; *id.*, (6 Feb.,) 11. Acts providing for special election of senator and representatives: Laws 1843, 136, 137. Apportionment acts amended: Laws 1845, (21 Feb.,) 51; *id.*, (1 Mar.,) 120; *id.*, (15 Jan.,) 191; *id.*, (23 Jan.,) 197. General act: Laws 1817, (25 Feb.,) 3.

eral assembly shall otherwise provide. The general assembly, at their first session holden under the authority of this constitution, shall petition the Congress of the United States to grant to this State a quantity of land, to consist of not more than four, nor less than one section, or to give to this State the right of pre-emption in the purchase of the said quantity of land; the said land to be situate on the Kaskaskia River, and, as near as may be, east of the third principal meridian on said river. Should the prayer of such petition be granted, the general assembly, at their next session thereafter, shall provide for the appointment of five commissioners to make the selection of said land so granted; and shall further provide for laying out a town upon the land so selected; which town, so laid out, shall be the seat of government of this State for the term of twenty years. Should, however, the prayer of said petition not be granted, the general assembly shall have power to make such provisions for a permanent seat of government as may be necessary, and shall fix the same where they may think best.

SEC. 14. Any person of thirty years of age who is a citizen of the United States and has resided within the limits of this State two years next preceding his election, shall be eligible to the office of lieutenant-governor; anything in the thirteenth section of the third article of this constitution contained to the contrary notwithstanding.

RESOLUTION OF CONGRESS—1818.

Resolution declaring the admission of the State of Illinois into the Union.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That whereas, in pursuance of an act of Congress passed on the eighteenth day of April, one thousand eight hundred and eighteen, entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States," the people of said Territory did, on the twenty-sixth day of August, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican, and in conformity to the principles of the articles of compact between the original States and the people and States in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Illinois shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

APPROVED, December 3, 1818.

CONSTITUTION OF ILLINOIS—1848.

PREAMBLE.

We, the people of the State of Illinois, grateful to Almighty God for the civil, political, and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, in order to form a more perfect government, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the State of Illinois.

ARTICLE I.

BOUNDARIES.

SECTION 1. The boundaries and jurisdiction of the State shall be as follows, to wit: Beginning at the mouth of the Wabash River; thence up the same, and with the line

of Indiana, to the northwest corner of said State; thence east, with the line of the same State, to the middle of Lake Michigan; thence north, along the middle of said lake, to north latitude forty-two degrees and thirty minutes; thence west to the middle of the Mississippi River, and thence down, along the middle of that river, to its confluence with the Ohio River; and thence up the latter river, along its northwestern shore, to the place of beginning: *Provided*, That this State shall exercise such jurisdiction upon the Ohio River as she is now entitled to, or such as may hereafter be agreed upon by this State and the State of Kentucky.

ARTICLE II.

CONCERNING THE DISTRIBUTION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Illinois shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to another.

SEC. 2. No person or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted, and all acts in contravention of this section shall be void.

ARTICLE III.

OF THE LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

SEC. 2. The first election for senators and representatives shall be held on the Tuesday after the first Monday in November, one thousand eight hundred and forty-eight; and thereafter, elections for members of the general assembly shall be held once in two years, on the Tuesday next after the first Monday in November, in each and every county, at such places therein as may be provided by law.

SEC. 3. No person shall be a representative who shall not have attained the age of twenty-five years; who shall not be a citizen of the United States, and three years an inhabitant of this State; who shall not have resided within the limits of the county or district in which he shall be chosen twelve months next preceding his election, if such county or district shall have been so long erected, but, if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State; and who, moreover, shall not have paid a State or county tax.

SEC. 4. No person shall be a senator who shall not have attained the age of thirty years; who shall not be a citizen of the United States, five years an inhabitant of this State, and one year in the county or district in which he shall be chosen immediately preceding his election, if such county or district shall have been so long erected, but, if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken, unless he shall have been absent on the public business of the United States or of this State, and shall not, moreover, have paid a State or county tax.

SEC. 5. The senators at their first session herein provided for shall be divided by lot, as near as can be, into two classes. The seats of the first class shall be vacated at the expiration of the second year, and those of the second class at the expiration of the fourth year; so that one-half thereof, as near as possible, may be biennially chosen forever thereafter.

SEC. 6. The senate shall consist of twenty-five members, and the house of representatives shall consist of seventy-five members, until the population of the State shall amount to one million of souls, when five members may be added to the house, and five additional members for every five hundred thousand inhabitants thereafter, until the whole number of representatives shall amount to one hundred; after which

the number shall neither be increased nor diminished; to be apportioned among the several counties according to the number of white inhabitants. In all future apportionments, where more than one county shall be thrown into a representative district, all the representatives to which said counties may be entitled shall be elected by the entire district.

SEC. 7. No person elected to the general assembly shall receive any civil appointment within this State, or to the Senate of the United States, from the governor, the governor and senate, or from the general assembly, during the term for which he shall have been elected; and all such appointments, and all votes given for any such member for any such office or appointment, shall be void; nor shall any member of the general assembly be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the time for which he shall have been elected, or during one year after the expiration thereof.

SEC. 8. In the year one thousand eight hundred and fifty-five, and every tenth year thereafter, an enumeration of the inhabitants of this State shall be made in such manner as shall be directed by law; and in the year eighteen hundred and fifty, and every tenth year thereafter, the census taken by authority of the Government of the United States shall be adopted by the general assembly as the enumeration of this State; and the number of senators and representatives shall, at the first regular session holden after the returns herein provided for are made, be apportioned among the several counties or districts to be established by law, according to the number of white inhabitants.

SEC. 9. Senatorial and representative districts shall be composed of contiguous territory bounded by county lines; and only one senator allowed to each senatorial, and not more than three representatives to any representative district: *Provided*, That cities and towns, containing the requisite population, may be erected into separate districts.

SEC. 10. In forming senatorial and representative districts, counties, containing a population of not more than one-fourth over the existing ratio, shall form separate districts, and the excess shall be given to the nearest county or counties not having a senator or representative, as the case may be, which has the largest white population.

SEC. 11. The first session of the general assembly shall commence on the first Monday of January, one thousand eight hundred and forty-nine; and forever after the general assembly shall meet on the first Monday of January next ensuing the election of the members thereof, and at no other period, unless as provided by this constitution.

SEC. 12. The senate and house of representatives, when assembled, shall each choose a speaker and other officers, (the speaker of the senate excepted.) Each house shall judge of the qualifications and election of its members, and sit upon its own adjournments. Two-thirds of each house shall constitute a quorum; but a smaller number may adjourn from day to day, and compel the attendance of absent members.

SEC. 13. Each house shall keep a journal of its proceedings, and publish them. The yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

SEC. 14. Any two members of either house shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public, or to any individual, and have the reasons of their dissent entered on the journals.

SEC. 15. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds of all the members elected, expel a member, but not a second time for the same cause; and the reason for such expulsion shall be entered upon the journal, with the names of the members voting upon the question.

SEC. 16. When vacancies shall happen in either house, the governor, or the person exercising the powers of governor, shall issue writs of election to fill such vacancies.

SEC. 17. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general as-

sembly, and in going and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 18. Each house may punish, by imprisonment during its session, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence: *Provided*, Such imprisonment shall not, at any one time, exceed twenty-four hours.

SEC. 19. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

SEC. 20. The style of the laws of this State shall be: "*Be it enacted by the people of the State of Illinois, represented in the general assembly.*"

SEC. 21. Bills may originate in either house, but may be altered, amended, or rejected, by the other; and, on the final passage of all bills, the vote shall be by ayes and noes, and shall be entered on the journal; and no bill shall become a law without the concurrence of a majority of all the members elect in each house.

SEC. 22. Bills making appropriations for the pay of the members and officers of the general assembly, and for the salaries of the officers of the government, shall not contain any provision on any other subject.

SEC. 23. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house, where such bill is so depending, shall deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the speakers of their respective houses; and no private or local law which may be passed by the general assembly shall embrace more than one subject, and that shall be expressed in the title. And no public act of the general assembly shall take effect or be in force until the expiration of sixty days from the end of the session at which the same may be passed, unless, in case of emergency, the general assembly shall otherwise direct.

SEC. 24. The sum of two dollars per day, for the first forty-two days' attendance, and one dollar per day for each day's attendance thereafter, and ten cents for each necessary mile's travel, going to and returning from the seat of government, shall be allowed to the members of the general assembly, as a compensation for their services, and no more. The speaker of the house of representatives shall be allowed the sum of one dollar per day, in addition to his per diem as a member.

SEC. 25. The per diem and mileage allowed to each member of the general assembly shall be certified by the speakers of their respective houses, and entered on the journal, and published at the close of each session.

SEC. 26. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and an accurate statement of the receipts and expenditures of the public moneys shall be attached to, and published with, the laws at the rising of each session of the general assembly. And no person, who has been or may be a collector or holder of the public moneys, shall be eligible to a seat in either house of the general assembly, nor be eligible to any office of profit or trust in this State, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable.

SEC. 27. The house of representatives shall have the sole power of impeaching; but a majority of all the members elected must concur in an impeachment. All impeachments shall be tried by the senate; and when sitting for that purpose the senators shall be upon oath, or affirmation, to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators elected.

SEC. 28. The governor, and other civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

SEC. 29. No judge of any court of law or equity, secretary of state, attorney-gen-

eral, attorney for the State, recorder, clerk of any court of record, sheriff, or collector, member of either house of Congress, or person holding any lucrative office under the United States or of this State—provided that appointments in the militia, or justices of the peace, shall not be considered lucrative offices—shall have a seat in the general assembly; nor shall any person holding any office of honor or profit under the Government of the United States hold any office of honor or profit under the authority of this State.

SEC. 30. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering upon the duties thereof, take an oath to support the Constitution of the United States, and of this State, and also an oath of office.

SEC. 31. The general assembly shall have full power to exclude from the privilege of electing, or being elected, any person convicted of bribery, perjury, or other infamous crime.

SEC. 32. The general assembly shall have no power to grant divorces, but may authorize the courts of justice to grant them for such cause as may be specified by law: *Provided*, That such laws be general and uniform in their operation.

SEC. 33. The general assembly shall never grant or authorize extra compensation to any public officer, agent, servant, or contractor, after the service shall have been rendered, or the contract entered into.

SEC. 34. The general assembly shall direct by law in what manner suits may be brought against the State.

SEC. 35. The general assembly shall have no power to authorize lotteries for any purpose, nor to revive or extend the charter of the State bank, or the charter of any other bank heretofore existing in this State, and shall pass laws to prohibit the sale of lottery-tickets in this State.

SEC. 36. The general assembly shall have no power to authorize, by private or special law, the sale of any lands or other real estate belonging in whole or in part to any individual or individuals.

SEC. 37. Each general assembly shall provide for all the appropriations necessary for the ordinary and contingent expenses of the government until the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of each house, nor exceed the amount of revenue authorized by law to be raised in such time: *Provided*, The State may, to meet casual deficits or failures in revenue, contract debts never to exceed in the aggregate fifty thousand dollars; and the moneys thus borrowed shall be applied to the purpose for which they were obtained, or to repay the debt thus made, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war (for payment of which the faith of the State shall be pledged) shall be contracted; unless the law authorizing the same shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for members of the general assembly at such election. The general assembly shall provide for the publication of said law for three months, at least, before the vote of the people shall be taken upon the same; and provision shall be made, at the time, for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrepealable until such debt be paid: *And provided further*, That the law levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

SEC. 38. The credit of the State shall not, in any manner, be given to, or in aid of, any individual, association, or corporation.

SEC. 39. The general assembly shall provide, by law, that the fuel and stationery furnished for the use of the State, the copying, printing, binding, and distributing the laws and journals, and all other printing ordered by the general assembly, shall be let, by contract, to the lowest responsible bidder; and that no member of the general assembly, or other officer of the State, shall be interested, either directly or indirectly, in any such contract: *Provided*, That the general assembly may fix a maximum price.

SEC. 40. Until there shall be a new apportionment of senators and representatives, the State shall be divided into senatorial and representative districts; and the senators and representatives shall be apportioned among the several districts as follows, viz:

*Senatorial Districts.**

1. The counties of Alexander, Union, Pulaski, Johnson, Massac, Pope, and Hardin shall constitute the first senatorial district, and shall be entitled to one senator.
2. The counties of Gallatin, Saline, Williamson, Franklin, and White shall constitute the second senatorial district, and be entitled to one senator.
3. The counties of Jefferson, Wayne, Marion and Hamilton shall constitute the third senatorial district, and be entitled to one senator.
4. The counties of Washington, Perry, Randolph, and Jackson shall constitute the fourth senatorial district, and be entitled to one senator.
5. The counties of Saint Clair and Monroe shall constitute the fifth senatorial district, and be entitled to one senator.
6. The counties of Madison and Clinton shall constitute the sixth senatorial district, and be entitled to one senator.
7. The counties of Christian, Shelby, Montgomery, Bond, and Fayette shall constitute the seventh senatorial district, and be entitled to one senator.
8. The counties of Effingham, Jasper, Clay, Richland, Lawrence, Edwards, and Wabash shall constitute the eighth senatorial district, and be entitled to one senator.
9. The counties of Edgar, Clark, and Crawford shall constitute the ninth senatorial district, and be entitled to one senator.
10. The counties of Vermillion, Champaign, Piatt, Moultrie, Coles, and Cumberland shall constitute the tenth senatorial district, and be entitled to one senator.
11. The counties of Tazewell, McLean, Logan, De Witt, and Macon shall constitute the eleventh senatorial district, and be entitled to one senator.
12. The counties of Sangamon, Menard, and Mason shall constitute the twelfth senatorial district, and be entitled to one senator.
13. The counties of Macoupin, Jersey, Greene, and Calhoun shall constitute the thirteenth senatorial district, and be entitled to one senator.
14. The counties of Morgan, Scott, and Cass shall constitute the fourteenth senatorial district, and be entitled to one senator.
15. The counties of Adams and Pike shall constitute the fifteenth senatorial district, and be entitled to one senator.
16. The counties of McDonough, Schuyler, Brown, and Highland shall constitute the sixteenth senatorial district, and be entitled to one senator.
17. The counties of Hancock and Henderson shall constitute the seventeenth senatorial district, and be entitled to one senator.
18. The counties of Fulton and Peoria shall constitute the eighteenth senatorial district, and be entitled to one senator.
19. The counties of Rock Island, Henry, Mercer, Warren, Knox, and Stark shall constitute the nineteenth senatorial district, and be entitled to one senator.
20. The counties of La Salle, Bureau, Putnam, Marshall, Woodford, Livingston, and Grundy shall constitute the twentieth senatorial district, and be entitled to one senator.
21. The counties of Du Page, Kendall, Will, and Iroquois shall constitute the twenty-first senatorial district, and be entitled to one senator.
22. The counties of Ogle, Lee, De Kalb, and Kane shall constitute the twenty-second senatorial district, and be entitled to one senator.
23. The counties of Jo Daviess, Stephenson, Carroll, and Whitesides shall constitute the twenty-third senatorial district, and be entitled to one senator.
24. The counties of McHenry, Boone, and Winnebago shall constitute the twenty-fourth senatorial district, and be entitled to one senator.
25. The counties of Cook and Lake shall constitute the twenty-fifth senatorial district, and be entitled to one senator.

* This apportionment was changed by the following acts: Creating 25 senatorial and 58 representative districts, February 27, 1854; creating 25 senatorial and 61 representative districts, January 31, 1861.

Representative districts.

1. The counties of Union, Alexander, and Pulaski shall constitute the first representative district, and be entitled to one representative.
2. The counties of Massac, Pope, and Hardin shall constitute the second representative district, and be entitled to one representative.
3. The counties of Gallatin and Saline shall constitute the third representative district, and be entitled to one representative.
4. The counties of Johnson and Williamson shall constitute the fourth representative district, and be entitled to one representative.
5. The counties of Jackson and Franklin shall constitute the fifth representative district, and be entitled to one representative.
6. The counties of Marion, Jefferson, Wayne, and Hamilton shall constitute the sixth representative district, and be entitled to three representatives: *Provided*, That no county in said district shall have more than one of said representatives, and the county from which a senator shall be selected shall not be entitled to a representative residing in said county.
7. The county of White shall constitute the seventh representative district, and be entitled to one representative.
8. The counties of Wabash and Edwards shall constitute the eighth representative district, and be entitled to one representative.
9. The counties of Lawrence and Richland shall constitute the ninth representative district, and be entitled to one representative.
10. The counties of Crawford and Jasper shall constitute the tenth representative district, and be entitled to one representative.
11. The county of Coles shall constitute the eleventh representative district, and be entitled to one representative.
12. The county of Clark shall constitute the twelfth representative district, and be entitled to one representative.
13. The counties of Cumberland, Effingham, and Clay shall constitute the thirteenth representative district, and be entitled to one representative.
14. The county of Fayette shall constitute the fourteenth representative district, and be entitled to one representative.
15. The counties of Montgomery, Bond, and Clinton shall constitute the fifteenth representative district, and be entitled to two representatives.
16. The counties of Washington and Perry shall constitute the sixteenth representative district, and be entitled to one representative.
17. The county of Randolph shall constitute the seventeenth representative district, and be entitled to one representative.
18. The county of Monroe shall constitute the eighteenth representative district, and be entitled to one representative.
19. The county of Saint Clair shall constitute the nineteenth representative district, and be entitled to two representatives.
20. The county of Madison shall constitute the twentieth representative district, and be entitled to two representatives.
21. The county of Macoupin shall constitute the twenty-first representative district, and be entitled to one representative.
22. The counties of Jersey and Greene shall constitute the twenty-second representative district, and be entitled to two representatives.
23. The county of Scott shall constitute the twenty-third representative district, and be entitled to one representative.
24. The county of Morgan shall constitute the twenty-fourth representative district, and be entitled to two representatives.
25. The counties of Cass and Menard shall constitute the twenty-fifth representative district, and be entitled to one representative.
26. The county of Sangamon shall constitute the twenty-sixth representative district, and be entitled to two representatives.

27. The counties of Mason and Logan shall constitute the twenty-seventh representative district, and be entitled to one representative.
28. The county of Tazewell shall constitute the twenty-eighth representative district, and be entitled to one representative.
29. The counties of McLean and De Witt shall constitute the twenty-ninth representative district, and be entitled to one representative.
30. The county of Vermillion shall constitute the thirtieth representative district, and be entitled to one representative.
31. The county of Edgar shall constitute the thirty-first representative district, and be entitled to one representative.
32. The counties of Champaign, Piatt, Moultrie, and Macon shall constitute the thirty-second representative district, and be entitled to one representative.
33. The counties of Shelby and Christian shall constitute the thirty-third representative district, and be entitled to one representative.
34. The counties of Pike and Calhoun shall constitute the thirty-fourth representative district, and be entitled to two representatives.
35. The counties of Adams, Highland, and Brown shall constitute the thirty-fifth representative district, and be entitled to three representatives.
36. The county of Schuyler shall constitute the thirty-sixth representative district, and be entitled to one representative.
37. The county of Hancock shall constitute the thirty-seventh representative district, and be entitled to two representatives.
38. The county of McDonough shall constitute the thirty-eighth representative district, and be entitled to one representative.
39. The county of Fulton shall constitute the thirty-ninth representative district, and be entitled to two representatives.
40. The county of Peoria shall constitute the fortieth representative district, and be entitled to one representative.
41. The county of Knox shall constitute the forty-first representative district, and be entitled to one representative.
42. The counties of Mercer, Warren, and Henderson shall constitute the forty-second representative district, and be entitled to two representatives.
43. The counties of Rock Island, Henry, and Stark shall constitute the forty-third representative district, and be entitled to one representative.
44. The counties of Whitesides and Lee shall constitute the forty-fourth representative district, and be entitled to one representative.
45. The counties of Carroll and Ogle shall constitute the forty-fifth representative district, and be entitled to one representative.
46. The counties of Jo Daviess and Stephenson shall constitute the forty-sixth representative district, and be entitled to two representatives.
47. The county of Winnebago shall constitute the forty-seventh representative district, and be entitled to one representative.
48. The counties of Putnam, Marshall, and Woodford shall constitute the forty-eighth representative district, and be entitled to one representative.
49. The counties of La Salle, Grundy, Livingston, and Bureau shall constitute the forty-ninth representative district, and be entitled to two representatives.
50. The counties of Du Page, Kendall, Will, and Iroquois shall constitute the fiftieth representative district, and be entitled to three representatives.
51. The counties of Kane and De Kalb shall constitute the fifty-first representative district, and be entitled to two representatives.
52. The counties of Boone and McHenry shall constitute the fifty-second representative district, and be entitled to two representatives.
53. The county of Lake shall constitute the fifty-third representative district, and be entitled to one representative.
54. The county of Cook shall constitute the fifty-fourth representative district, and be entitled to two representatives.

SEC. 41. Until the general assembly shall otherwise provide, the clerks of the county commissioners' courts in each of the aforesaid senatorial districts, and in such of the

representative districts as may be composed of more than one county, shall meet at the county-seat of the oldest county in said district, within thirty days next after any election for senator or representative therein, for the purpose of comparing and canvassing the votes given at such election; and the said clerks shall in all other respects conform to the laws on the subject in force at the time of the adoption of this constitution.

ARTICLE IV.

OF THE EXECUTIVE DEPARTMENT.

SECTION 1. The executive power of the State shall be vested in a governor.

SEC. 2. The first election of governor shall be held on Tuesday next after the first Monday in November, A. D. 1848; and the next election shall be held on Tuesday next after the first Monday of November, A. D. 1852; and thereafter an election for governor shall be held once in four years, on Tuesday next after the first Monday of November. The governor shall be chosen by the electors of the members of the general assembly, at the same places and in the same manner that they shall, respectively, vote for members thereof. The returns for every election of governor shall be sealed up, and transmitted to the seat of government, by the returning officers, directed to the speaker of the house of representatives, who shall open and publish them in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be governor; but if two or more be equal and highest in votes, then one of them shall be chosen governor by joint ballot of both houses of the general assembly. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

SEC. 3. The first governor shall enter upon the duties of his office on the second Monday of January, A. D. 1849, and shall hold his office until the second Monday of January, A. D. 1853, and until his successor shall have been elected and qualified; and thereafter the governor shall hold his office for the term of four years, and until his successor shall have been elected and qualified; but he shall not be eligible to such office more than four years in any term of eight years, nor to any other office until after the expiration of the term for which he was elected.

SEC. 4. No person, except a citizen of the United States, shall be eligible to the office of governor; nor shall any person be eligible to that office, who shall not have attained the age of thirty-five years, and been ten years a resident of this State, and fourteen years a citizen of the United States.

SEC. 5. The governor shall reside at the seat of government, and receive a salary of fifteen hundred dollars per annum, which shall not be increased or diminished; and he shall not, during the time for which he shall have been elected, receive any emolument from the United States, or either of them.

SEC. 6. Before he enters upon the duties of his office, he shall take the following oath or affirmation, to wit: "I do solemnly swear [or affirm] that I will faithfully execute the duties appertaining to the office of governor of the State of Illinois; and will, to the best of my ability, preserve, protect, and defend the constitution of this State; and will also support the Constitution of the United States."

SEC. 7. He shall, from time to time, give the general assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

SEC. 8. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences, except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the general assembly at its next meeting, when the general assembly shall pardon the convict, commute the sentence, direct the execution thereof, or grant a further reprieve. He shall, biennially, communicate to the general assembly each case of reprieve, commutation, or pardon

granted, stating the name of the convict, the crime for which he was convicted, the sentence and its date, and the date of commutation, pardon, or reprieve.

SEC. 9. He may require information in writing from the officers in the executive departments, upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

SEC. 10. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state, in said proclamation, the purpose for which they are to convene; and the general assembly shall enter on no legislative business except that for which they were specially called together.

SEC. 11. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 12. The governor shall nominate, and by and with the advice and consent of the senate (a majority of all the senators concurring) appoint, all officers whose offices are established by this constitution, or which may be created by law, and whose appointments are not otherwise provided for; and no such officer shall be appointed or elected by the general assembly.

SEC. 13. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he thinks proper: *Provided*, It be not to a period beyond the next constitutional meeting of the same.

SEC. 14. A lieutenant-governor shall be chosen at every election of governor in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor, and whom as lieutenant-governor.

SEC. 15. The lieutenant-governor shall, by virtue of his office, be speaker of the senate, have a right, when in committee of the whole, to debate and vote on all subjects, and, whenever the senate are equally divided, to give the casting vote.

SEC. 16. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as speaker of the senate, the senators shall elect one of their own number as speaker for that occasion; and if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, or resign, or die, or be absent from the State, the speaker of the senate shall, in like manner, administer the government.

SEC. 17. The lieutenant-governor, while he acts as speaker of the senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives, and no more.

SEC. 18. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State, during the recess of the general assembly, it shall be the duty of the secretary of state, for the time being, to convene the senate for the purpose of choosing a speaker.

SEC. 19. In case of impeachment of the governor, his absence from the State, or inability to discharge the duties of his office, the powers, duties, and emoluments of the office shall devolve upon the lieutenant-governor; and in case of his death, resignation, or removal, then upon the speaker of the senate for the time being, until the governor, absent or impeached, shall return or be acquitted; or until the disqualification or inability shall cease; or until a new governor shall be elected and qualified.

SEC. 20. In case of a vacancy in the office of governor, for any other cause than those herein enumerated, or in case of the death of the governor-elect before he is qualified, the powers, duties, and emoluments of the office shall devolve upon the lieutenant-governor, or speaker of the senate, as above provided, until a new governor be elected and qualified.

SEC. 21. Every bill which shall have passed the senate and house of representatives shall, before it becomes a law, be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated; and the said house shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, a majority of the members elected shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by a

majority of the members elected, it shall become a law, notwithstanding the objections of the governor; but in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the general assembly shall, by their adjournment, prevent its return, in which case the said bill shall be returned on the first day of the meeting of the general assembly, after the expiration of said ten days, or be a law.

SEC. 22. There shall be elected by the qualified electors of this State, at the same time of the election for governor, a secretary of state, whose term of office shall be the same as that of the governor, who shall keep a fair register of the official acts of the governor, and, when required, shall lay the same, and all papers, minutes, and vouchers, relative thereto, before either branch of the general assembly, and shall perform such other duties as shall be assigned him by law, and shall receive a salary of eight hundred dollars per annum, and no more, except fees: *Provided*, That if the office of secretary of state should be vacated by death, resignation, or otherwise, it shall be the duty of the governor to appoint another, who shall hold his office until another secretary shall be elected and qualified.

SEC. 23. There shall be chosen, by the qualified electors throughout the State, an auditor of public accounts, who shall hold his office for the term of four years, and until his successor is qualified, and whose duties shall be regulated by law, and who shall receive a salary, exclusive of clerk-hire, of one thousand dollars per annum for his services, and no more.

SEC. 24. There shall be elected, by the qualified electors throughout the State, a State treasurer, who shall hold his office for two years, and until his successor is qualified; whose duties may be regulated by law, and who shall receive a salary of eight hundred dollars per annum, and no more.

SEC. 25. All grants and commissions shall be sealed with the great seal of state, signed by the governor or person administering the government, and countersigned by the secretary of state.

SEC. 26. The governor and all other civil officers shall be liable to impeachment for misdemeanor in office, during their continuance in office, and for two years thereafter.

ARTICLE V.

OF THE JUDICIARY DEPARTMENT.

SECTION 1. The judicial power of this State shall be, and is hereby, vested in one supreme court, in circuit courts, in county courts, and in justices of the peace: *Provided*, That inferior local courts, of civil and criminal jurisdiction, may be established by the general assembly in the cities of this State, but such courts shall have a uniform organization and jurisdiction in such cities.

SEC. 2. The supreme court shall consist of three judges, two of whom shall form a quorum; and the concurrence of two of said judges shall in all cases be necessary to a decision.

SEC. 3. The State shall be divided into three grand divisions, as nearly equal as may be, and the qualified electors of each division shall elect one of the said judges for the term of nine years: *Provided*, That after the first election of such judges, the general assembly may have the power to provide by law for their election by the whole State, or by divisions, as they may deem most expedient.

SEC. 4. The office of one of said judges shall be vacated, after the first election held under this article, in three years; of one, in six years; and of one, in nine years; to be decided by lot, so that one of said judges shall be elected once in every three years. The judge having the longest term to serve shall be the first chief-justice; after which, the judge having the oldest commission shall be chief-justice.

SEC. 5. The supreme court may have original jurisdiction in cases relative to the revenue, in cases of *mandamus*, *habeas corpus*, and in such cases of impeachment as may be by law directed to be tried before it, and shall have appellate jurisdiction in all other cases.

SEC. 6. The supreme court shall hold one term annually in each of the aforesaid grand divisions, at such time and place, in each of said divisions, as may be provided for by law.

SEC. 7. The State shall be divided into nine judicial districts, in each of which one circuit judge shall be elected by the qualified electors thereof, who shall hold his office for the term of six years, and until his successor shall be commissioned and qualified: *Provided*, That the general assembly may increase the number of circuits to meet the future exigencies of the State.

SEC. 8. There shall be two or more terms of the circuit court held annually in each county of this State, at such times as shall be provided by law; and said courts shall have jurisdiction in all cases at law and equity, and in all cases of appeals from all inferior courts.

SEC. 9. All vacancies in the supreme and circuit courts shall be filled by the election as aforesaid: *Provided, however*, That if the unexpired term does not exceed one year, such vacancy may be filled by executive appointment.

SEC. 10. The judges of the supreme court shall receive a salary of twelve hundred dollars per annum, payable quarterly, and no more. The judges of the circuit courts shall receive a salary of one thousand dollars per annum, payable quarterly, and no more. The judges of the supreme and circuit courts shall not be eligible to any other office or public trust, of profit, in this State or the United States, during the term for which they are elected, nor for one year thereafter. All votes for either of them for any elective office, (except that of judge of the supreme or circuit courts,) given by the general assembly, or the people, shall be void.

SEC. 11. No person shall be eligible to the office of judge of any court of this State who is not a citizen of the United States, and who shall not have resided in this State five years next preceding his election, and who shall not for two years next preceding his election have resided in the division, circuit, or county in which he shall be elected; nor shall any person be elected judge of the supreme court who shall be, at the time of his election, under the age of thirty-five years; and no person shall be eligible to the office of judge of the circuit court until he shall have attained the age of thirty years.

SEC. 12. For any reasonable cause, to be entered on the journals of each house, which shall not be a sufficient ground for impeachment, both justices of the supreme court and judges of the circuit court shall be removed from office, on the vote of two-thirds of the members elected to each branch of the general assembly: *Provided always*, That no member of either house of the general assembly shall be eligible to fill the vacancy occasioned by such removal: *Provided also*, That no removal shall be made unless the justice or judge complained of shall have been served with a copy of the complaint against him, and shall have an opportunity of being heard in his defence.

SEC. 13. The first election for justices of the supreme court and judges of the circuit courts shall be held on the first Monday of September, 1848.

SEC. 14. The second election for one justice of the supreme court shall be held on the first Monday of June, 1852; and every three years thereafter an election shall be held for one justice of the supreme court.

SEC. 15. On the first Monday of June, 1855, and every sixth year thereafter, an election shall be held for judges of the circuit courts: *Provided*, Whenever an additional circuit is created, such provision may be made as to hold the second election of such additional judge at the regular elections herein provided.

SEC. 16. There shall be in each county a court to be called a county court.

SEC. 17. One county judge shall be elected by the qualified voters of each county, who shall hold his office for four years, and until his successor is elected and qualified.

SEC. 18. The jurisdiction of said court shall extend to all probate and such other jurisdiction as the general assembly may confer in civil cases, and such criminal cases as may be prescribed by law, where the punishment is by fine only, not exceeding one hundred dollars.

SEC. 19. The county judge, with such justices of the peace in each county as may be designated by law, shall hold terms for the transaction of county business, and

shall perform such other duties as the general assembly shall prescribe: *Provided*, The general assembly may require that two justices, to be chosen by the qualified electors of each county, shall sit with the county judge in all cases; and there shall be elected, quadrennially, in each county, a clerk of the county court, who shall be *ex-officio* recorder, whose compensation shall be fees: *Provided*, The general assembly may, by law, make the clerk of the circuit court *ex-officio* recorder, in lieu of the county clerk.

SEC. 20. The general assembly shall provide for the compensation of the county judge.

SEC. 21. The clerks of the supreme and circuit courts, and State's attorneys, shall be elected at the first special election for judges. The second election for clerks of the supreme court shall be held on the first Monday of June, 1855, and every sixth year thereafter. The second election for clerks of the circuit courts and State's attorneys shall be held on Tuesday next after the first Monday of November, 1852, and every fourth year thereafter.

SEC. 22. All judges and State's attorneys shall be commissioned by the governor.

SEC. 23. The election of all officers, and the filling of all vacancies that may happen by death, resignation, or removal, not otherwise directed or provided for by this constitution, shall be made in such a manner as the general assembly shall direct: *Provided*, That no such officer shall be elected by the general assembly.

SEC. 24. The general assembly may authorize the judgments, decrees, and decisions of any local inferior court of record, of original, civil, or criminal jurisdiction, established in a city, to be removed, for revision, directly into the supreme court.

SEC. 25. County judges, clerks, sheriffs, and other county officers, for wilful neglect of duty, or misdemeanor in office, shall be liable to presentment or indictment by a grand jury, and trial by a petit jury, and, upon conviction, shall be removed from office.

SEC. 26. All process, writs, and other proceedings shall run in the name of "The people of the State of Illinois." All prosecutions shall be carried on "In the name and by the authority of the people of the State of Illinois," and conclude, "Against the peace and dignity of the same."

SEC. 27. There shall be elected in each county in this State, in such districts as the general assembly may direct, by the qualified electors thereof, a competent number of justices of the peace, who shall hold their offices for the term of four years, and until their successors shall have been elected and qualified, and who shall perform such duties, receive such compensation, and exercise such jurisdiction as may be prescribed by law.

SEC. 28. There shall be elected in each of the judicial circuits of this State, by the qualified electors thereof, one State's attorney, who shall hold his office for the term of four years, and until his successor shall be commissioned and qualified, who shall perform such duties and receive such compensation as may be prescribed by law: *Provided*, That the general assembly may hereafter provide by law for the election, by the qualified voters of each county in this State, of one county attorney for each county, in lieu of the State's attorneys provided for in this section; the term of office, duties, and compensation of which county attorneys shall be regulated by law.

SEC. 29. The qualified electors of each county in this State shall elect a clerk of the circuit court, who shall hold his office for the term of four years, and until his successor shall have been elected and qualified, who shall perform such duties and receive such compensation as may be prescribed by law. The clerks of the supreme court shall be elected, in each division, by the qualified electors thereof, for the term of six years, and until their successors shall have been elected and qualified, whose duties and compensation shall be provided by law.

SEC. 30. The first grand division for the election of judges of the supreme court shall consist of the counties of Alexander, Pulaski, Massac, Pope, Hardin, Gallatin, Saline, Williamson, Johnson, Union, Jackson, Randolph, Perry, Franklin, Hamilton, White, Wabash, Edwards, Wayne, Jefferson, Washington, Monroe, Saint Clair, Clinton, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Bond, Madison, Jersey, and Calhoun.

The second grand division shall consist of the counties of Edgar, Coles, Moultrie, Shelby, Montgomery, Macoupin, Greene, Pike, Adams, Highland, Hancock, McDonough, Schuyler, Brown, Fulton, Mason, Cass, Morgan, Scott, Sangamon, Christian, Macon, Piatt, Champaign, Vermillion, De Witt, Logan, Menard, Cumberland, and Clark.*

The third grand division shall consist of the counties of Henderson, Warren, Knox, Peoria, Tazewell, Woodford, McLean, Livingston, Iroquois, Will, Grundy, Kendall, La Salle, Putnam, Marshall, Stark, Bureau, Henry, Mercer, Rock Island, Whitesides, Lee, Carroll, Jo Daviess, Stephenson, Winnebago, Ogle, De Kalb, Boone, Kane, McHenry, Lake, Cook, and Du Page.

SEC. 31. The terms of the supreme court for the first division shall be held at Mount Vernon, in Jefferson County; for the second division, at Springfield, in Sangamon County; for the third division, at Ottawa, in La Salle County; until some other place in either division is fixed by law.

SEC. 32. Appeals and writs of error may be taken from the circuit court of any county to the supreme court held in the division which includes such county, or, with the consent of all the parties in the cause, to the supreme court in the next adjoining division.

SEC. 33. The foregoing districts may, after the taking of each census by the State, be altered, if necessary, to equalize the said districts in population; but such alteration shall be made by adding to such district such adjacent county or counties as will make said district nearest equal in population: *Provided*, No such alteration shall affect the office of any judge then in office.

ARTICLE VI.

ON ELECTIONS AND THE RIGHT OF SUFFRAGE.

SECTION 1. In all elections every white male citizen above the age of twenty-one years, having resided in the State one year next preceding any election, shall be entitled to vote at such election; and every white male inhabitant of the age aforesaid who may be a resident of the State at the time of the adoption of this constitution shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the district or county in which he shall actually reside at the time of such election.

SEC. 2. All votes shall be given by ballot.

SEC. 3. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same.

SEC. 4. No elector shall be obliged to do militia duty on the days of election, except in time of war or public danger.

SEC. 5. No elector shall be deemed to have lost his residence in this State by reason of his absence on the business of the United States or of this State.

SEC. 6. No soldier, seaman, or marine, in the Army or Navy of the United States, shall be deemed a resident of this State in consequence of being stationed at any military or naval place within the same.

SEC. 7. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next before the election or appointment.

SEC. 8. The general assembly shall have full power to pass laws excluding from the right of suffrage persons convicted of infamous crimes.

SEC. 9. The general elections shall be held on the Tuesday next after the first Monday of November, biennially, until otherwise provided by law.

ARTICLE VII.

OF COUNTIES.

SECTION 1. No new county shall be formed or established by the general assembly, which will reduce the county or counties, or either of them, from which it shall be

* McLean County was added to the second division by the act of February 16, 1865

taken, to less contents than four hundred square miles; nor shall any county be formed of less contents; nor shall any line thereof pass within less than ten miles of any county-seat of the county or counties proposed to be divided.

SEC. 2. No county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county voting on the question shall vote for the same.

SEC. 3. All territory which has been or may be stricken off, by legislative enactment, from any organized county or counties, for the purpose of forming a new county, and which shall remain unorganized after the period provided for such organization, shall be and remain a part of the county or counties from which it was originally taken, for all purposes of county and State government, until otherwise provided by law.

SEC. 4. There shall be no territory stricken from any county unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of a majority of the voters of the county to which it is proposed to be added.

SEC. 5. No county-seat shall be removed until the point to which it is proposed to be removed shall be fixed by law, and a majority of the voters of the county shall have voted in favor of its removal to such point.

SEC. 6. The general assembly shall provide, by a general law, for a township organization, under which any county may organize whenever a majority of the voters of such county, at any general election, shall so determine; and whenever any county shall adopt a township organization, so much of this constitution as provides for the management of the fiscal concerns of the said county by the county court may be dispensed with, and the affairs of said county may be transacted in such manner as the general assembly may provide.

SEC. 7. There shall be elected in each county in this State, by the qualified electors thereof, a sheriff, who shall hold his office for the term of two years, and until his successor shall have been elected and qualified: *Provided*, No person shall be eligible to the said office more than once in four years.

ARTICLE VIII.

MILITIA.

SECTION 1. The militia of the State of Illinois shall consist of all free male able-bodied persons (negroes, mulattoes, and Indians excepted) resident of the State, between the ages of eighteen and forty-five years, except such persons as now are or hereafter may be exempted by the laws of the United States or of this State, and shall be armed, equipped, and trained as the general assembly may provide by law.

SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace, provided such person or persons shall pay an equivalent for such exemption.

SEC. 3. Company, battalion, and regimental officers, staff-officers excepted, shall be elected by the persons composing their several companies, battalions, and regiments.

SEC. 4. Brigadier and major generals shall be elected by the officers of their brigades and divisions, respectively.

SEC. 5. All militia officers shall be commissioned by the governor, and may hold their commissions for such time as the legislature may provide.

SEC. 6. The militia shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and election of officers, and in going to and returning from the same.

ARTICLE IX.

OF THE REVENUE.

SECTION 1. The general assembly may, whenever they shall deem it necessary, cause to be collected from all able-bodied free white male inhabitants of this State, over the age of twenty-one years and under the age of sixty years, who are entitled to the

right of suffrage, a capitation-tax of not less than fifty cents nor more than one dollar each.

SEC. 2. The general assembly shall provide for levying a tax by valuation, so that every person and corporation shall pay a tax in proportion to the value of his or her property; such value to be ascertained by some person or persons to be elected or appointed in such manner as the general assembly shall direct, and not otherwise; but the general assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission-merchants, show-men, jugglers, innkeepers, grocery-keepers, toll bridges and ferries, and persons using and exercising franchises and privileges in such manner as they shall from time to time direct.

SEC. 3. The property of the State and counties, both real and personal, and such other property as the general assembly may deem necessary for school, religious, and charitable purposes, may be exempted from taxation.

SEC. 4. Hereafter no purchaser of any land or town-lot, at any sale of lands or town-lots, for taxes due either to this State, or any county, or incorporated town or city within the same; or at any sale for taxes or levies authorized by the laws of this State, shall be entitled to a deed for the lands or town-lots so purchased until he or she shall have complied with the following conditions, to wit: Such purchaser shall serve, or cause to be served, a written notice of such purchase on every person in possession of such land or town-lot, three months before the expiration of the time of redemption on such sale; in which notice he shall state when he purchased the land or town-lot, the description of the land or lot he has purchased, and when the time of redemption will expire. In like manner he shall serve on the person or persons in whose name or names such land or lot is taxed a similar written notice, if such person or persons shall reside in the county where such land or lot shall be situated; and in the event that the person or persons in whose name or names the land or lot is taxed do not reside in the county, such purchaser shall publish such notice in some newspaper printed in such county; and if no newspaper is printed in the county, then in the nearest newspaper that is published in this State to the county in which such lot or land is situated; which notice shall be inserted three times, the last time not less than three months before the time of redemption shall expire. Every such purchaser, by himself or agent, shall, before he shall be entitled to a deed, make an affidavit of having complied with the conditions of this section, stating particularly the facts relied on as such compliance; which affidavit shall be delivered to the person authorized by law to execute such tax-deed, and which shall by him be filed with the officer having custody of the records of lands and lots sold for taxes, and entries of redemption in the county where such land or lot shall lie, to be by such officer entered on the records of his office and carefully preserved among the files of his office; and which record or affidavit shall be *prima-facie* evidence that such notice has been given. Any person swearing falsely in such affidavit shall be deemed guilty of perjury, and punished accordingly. In case any person shall be compelled under this section to publish a notice in a newspaper, then, before any person who may have a right to redeem such land or lot from tax-sale shall be permitted to redeem, he or she shall pay the officer or person who by law is authorized to receive such redemption-money, the printer's fee for publishing such notice, and the expenses of swearing or affirming to the affidavit, and filing the same.

SEC. 5. The corporate authorities of counties, townships, school districts, cities, towns, and villages may be vested with power to assess and collect taxes for corporate purposes; such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. And the general assembly shall require that all the property within the limits of municipal corporations belonging to individuals shall be taxed for the payment of debts contracted under authority of law.

SEC. 6. The specifications of the objects and subjects of taxation shall not deprive the general assembly of the power to require other objects or subjects to be taxed in such manner as may be consistent with the principles of taxation fixed in this constitution.

ARTICLE X.

CORPORATIONS.

SECTION 1. Corporations, not possessing banking powers or privileges, may be formed under general laws, but shall not be created by special acts, except for municipal purposes, and in cases where, in the judgment of the general assembly, the objects of the corporation cannot be attained under general laws.

SEC. 2. Dues from corporations, not possessing banking powers or privileges, shall be secured by such individual liabilities of the corporators, or other means, as may be prescribed by law.

SEC. 3. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation or joint-stock association for banking purposes, to be hereafter created.

SEC. 4. The stockholders in every corporation, or joint-stock association for banking purposes, issuing bank-notes, or any kind of paper credits to circulate as money, shall be individually responsible, to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind.

SEC. 5. No act of the general assembly, authorizing corporations or associations with banking powers, shall go into effect, or in any manner be in force, unless the same shall be submitted to the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for and against such law.

SEC. 6. The general assembly shall encourage internal improvements, by passing liberal laws of incorporation for that purpose.

ARTICLE XI.

COMMONS.

All lands which have been granted, as a "common," to the inhabitants of any town, hamlet, village, or corporation, by any person, body politic or corporate, or by any government having power to make such grant, shall forever remain common to the inhabitants of such town, hamlet, village, or corporation; but the said commons, or any of them, or any part thereof, may be divided, leased, or granted, in such manner as may hereafter be provided by law, on petition of a majority of the qualified voters interested in such common, or any of them.

ARTICLE XII.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Whenever two-thirds of all the members elected to each branch of the general assembly shall think it necessary to alter or amend this constitution, they shall recommend to the electors at the next election of members of the general assembly, to vote for or against a convention; and if it shall appear that a majority of all the electors of the State voting for representatives have voted for a convention, the general assembly shall, at their next session, call a convention to consist of as many members as the house of representatives at the time of making said call, to be chosen in the same manner, at the same place, and by the same electors, in the same districts that chose the members of the house of representatives; and which convention shall meet within three months after the said election, for the purpose of revising, altering, or amending this constitution.

SEC. 2. Any amendment or amendments to this constitution may be proposed in either branch of the general assembly; and if the same shall be agreed to by two-thirds of all the members-elect in each of the two houses, such proposed amendment or amendments shall be referred to the next regular session of the general assembly, and shall be published at least three months previous to the time of holding the next

election for members of the house of representatives; and if, at the next regular session of the general assembly after said election, a majority of all the members-elect in each branch of the general assembly shall agree to said amendment or amendments, then it shall be their duty to submit the same to the people at the next general election for their adoption or rejection, in such manner as may be prescribed by law; and if a majority of all the electors voting at such election for members of the house of representatives shall vote for such amendment or amendments, the same shall become a part of the constitution. But the general assembly shall not have power to propose an amendment or amendments to more than one article of the constitution at the same session.

ARTICLE XIII.

DECLARATION OF RIGHTS.

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare:

SECTION 1. That all men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, and of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious establishments or modes of worship.

SEC. 4. That no religious test shall ever be required as a qualification to any office of public trust under this State.

SEC. 5. That all elections shall be free and equal.

SEC. 6. That the right of trial by jury shall remain inviolate; and shall extend to all cases at law, without regard to the amount in controversy.

SEC. 7. That the people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and that general warrants, whereby an officer may be commanded to search suspected places without evidence of the fact committed, or to seize any person or persons not named, whose offences are not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

SEC. 8. That no freeman shall be imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the judgment of his peers, or the law of the land.

SEC. 9. That in all criminal prosecutions the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his favor; and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the county or district wherein the offence shall be committed, which county or district shall have been previously ascertained by law; and that he shall not be compelled to give evidence against himself.

SEC. 10. No person shall be held to answer for a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justices of the peace, or arising in the army or navy, or in the militia when in actual service in time of war or public danger: *Provided*, That justices of the peace shall try no person, except as a court of inquiry, for any offence punishable with imprisonment or death, or fine above one hundred dollars.

SEC. 11. No person shall, for the same offence, be twice put in jeopardy of his life or limb; nor shall any man's property be taken or applied to public use without the consent of his representatives in the general assembly, nor without just compensation being made to him.

SEC. 12. Every person within this State ought to find a certain remedy in the laws

for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain right and justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.

SEC. 13. That all persons shall be bailable by sufficient sureties, unless for capital offences where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 14. All penalties shall be proportioned to the nature of the offence; the true design of all punishment being to reform, not to exterminate, mankind.

SEC. 15. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law, or in cases where there is strong presumption of fraud.

SEC. 16. There shall be neither slavery nor involuntary servitude in this State, except as a punishment for crime whereof the party shall have been duly convicted.

SEC. 17. No *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be made; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 18. That no person shall be liable to be transported out of this State for any offence committed within the same.

SEC. 19. That a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

SEC. 20. The military shall be in strict subordination to the civil power.

SEC. 21. That the people have a right to assemble together in a peaceable manner to consult for their common good, to instruct their representatives, and to apply to the general assembly for redress of grievances.

SEC. 22. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in manner prescribed by law.

SEC. 23. The printing-presses shall be free to every person who undertakes to examine the proceedings of the general assembly, or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 24. In prosecutions for the publication of papers investigating the official conduct of officers, or of men acting in a public capacity, or when the matter published is proper for public information, the truth thereof may be given in evidence; and in all indictments for libels, the jury shall have the right of determining both the law and the fact; under the direction of the court, as in other cases.

SEC. 25. Any person who shall, after the adoption of this constitution, fight a duel, or send or accept a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of the right of holding any office of honor or profit in this State, and shall be punished otherwise in such manner as is or may be prescribed by law.

SEC. 26. That from and after the adoption of this constitution every person who shall be elected or appointed to any office of profit, trust, or emolument, civil or military, legislative, executive, or judicial, under the government of this State, shall, before he enters upon the duties of his office, in addition to the oath prescribed in this constitution, take the following oath: "I do solemnly swear [or affirm, as the case may be] that I have not fought a duel, nor sent or accepted a challenge to fight a duel, the probable issue of which might have been the death of either party, nor been a second to either party, nor in any manner aided or assisted in such duel, nor been knowingly the bearer of such challenge or acceptance, since the adoption of the constitution; and that I will not be so engaged or concerned, directly or indirectly, in or about any such duel, during my continuance in office; so help me God."

ARTICLE XIV.

PERSONS OF COLOR

The general assembly shall, at its first session under the amended constitution, pass such laws as will effectually prohibit free persons of color from immigrating to and

settling in this State; and to effectually prevent the owners of slaves from bringing them into this State, for the purpose of setting them free.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in the constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this constitution, not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts of this State, individuals or bodies-corporate, shall continue, and be as valid as if this constitution had not been adopted.

SEC. 2. That all fines, penalties, and forfeitures due and owing to the State of Illinois under the present constitution and laws shall inure to the use of the people of the State of Illinois under this constitution.

SEC. 3. Recognizances, bonds, obligations, and all other instruments entered into or executed, before the adoption of this constitution, to the people of the State of Illinois, to any State or county officer or public body, shall remain binding and valid, and rights and liabilities upon the same shall continue, and all crimes and misdemeanors shall be tried and punished as though no change had been made in the constitution of the State.

SEC. 4. That "Article XI," entitled "Commons," is hereby adopted as a part of the constitution of this State, without being submitted to be voted upon by the people.

SEC. 5. That at the first election fixed by this constitution for the election of judges, there shall be elected one circuit judge in each of the nine judicial circuits now established in this State.

SEC. 6. The county commissioners' courts and the probate justices of the several counties shall continue in existence and exercise their present jurisdiction until the county court, provided in this constitution, is organized in pursuance of an act of the general assembly to be passed at its first session.

SEC. 7. That the clerk of the circuit court, in each county fixed by this constitution as the place for holding the supreme court, except in the county of Sangamon, shall be *ex-officio* clerk of the supreme court, until the clerks of said court shall be elected and qualified, as provided in this constitution, and all laws now in force, in relation to the clerk of the supreme court, shall be applicable to said clerks and their duties.

SEC. 8. That the sheriffs, State attorneys, and all other officers elected under this constitution, shall perform such duties as shall be prescribed by law.

SEC. 9. That the oaths of office herein required to be taken may be administered by a justice of the peace until otherwise provided by law.

SEC. 10. That this constitution shall be submitted to the people for their adoption or rejection at an election to be held on the first Monday in March, A. D. 1848, and there shall also be submitted for adoption or rejection, at the same time, the separate articles in relation to the emigration of colored persons and the public debt.

SEC. 11. That every person entitled to vote for members of the general assembly, by the constitution and laws now in force, shall on the first Monday in March, A. D. 1848, be entitled to vote for the adoption or rejection of this constitution, and for and against the aforesaid articles separately submitted, and the said qualified electors shall vote in the counties in which they respectively reside, at the usual places of voting, and not elsewhere; and the said election shall be conducted according to the laws now in force in relation to the election of governor, so far as applicable, except as herein otherwise provided.

SEC. 12. [As this section merely gave the form of poll-book to be used when the constitution was submitted to the people, it is omitted, the event having passed.]

SEC. 13. That the returns of the votes for the adoption or rejection of this constitution, and for and against the separate articles submitted, shall be made to the secretary of state within fifty days after the election, and the returns of the votes shall, within five days thereafter, be examined and canvassed by the auditor, treasurer, and

secretary of state, or any two of them, in the presence of the governor, and proclamation shall be made by the governor forthwith of the result of the polls. If it shall appear that a majority of all the votes polled are for the adoption of this constitution, it shall be the supreme law of the land, from and after the first day of April, A. D. 1848; but if it shall appear that a majority of the votes polled were given against the constitution, the same shall be null and void. If it shall further appear that a majority of the votes polled shall have been given for the separate article in relation to colored persons, or the article for the two-mill tax, then said article or articles shall be and form a part of this constitution, otherwise said article or articles shall be null and void.

SEC. 14. That if this constitution shall be ratified by the people, the governor shall forthwith, after having ascertained the fact, issue writs of election to the sheriffs of the several counties in this State, or, in case of vacancy, to the coroners, for the election of all the officers, the time of whose election is fixed by this constitution or schedule; and it shall be the duty of said sheriffs or coroners to give at least twenty days' notice of the time and place of said election, in the manner now provided by law.

SEC. 15. The general assembly shall, at its first session after the adoption of this constitution, provide by law for the mode of voting by ballot, and also for the manner of returning, canvassing, and certifying the number of votes cast at any election; and until said law shall be passed, all elections shall be *viva voce*, and the laws now in force regulating elections shall continue in force until the general assembly shall provide otherwise, as herein directed.

SEC. 16. That the first general election of governor, secretary of state, auditor, treasurer, and members of the general assembly, and of such other officers as are to be elected at the same time, shall be held on the first Monday of August, eighteen hundred and forty-eight, anything in this constitution to the contrary notwithstanding. County officers then elected shall hold their respective offices until their successors are elected or appointed, in conformity with laws hereinafter enacted.

SEC. 17. That returns of the election of justices of the supreme and judges of the circuit courts, secretary of state, auditor, and treasurer, shall be made and canvassed as is now provided by law for Representatives in Congress; and returns for members of the general assembly and county officers shall be made and canvassed as is now provided by law.

SEC. 18. That all laws of the State of Illinois, and all official writings, and the executive, legislative, and judicial proceedings, shall be conducted, preserved, and published in no other than the English language.

SEC. 19. On the first Monday in December, one thousand eight hundred and forty-eight, the term of office of judges of the supreme court, State's attorneys, and of the clerks of the supreme and circuit courts, shall expire; and on said day the term of office of the judges, State's attorneys, and clerks elected under the provisions of this constitution shall commence. The judges of the supreme court, elected as aforesaid, shall have and exercise the powers and jurisdiction conferred upon the present judges of that court; and the said judges of the circuit courts shall have and exercise the powers and jurisdiction conferred upon the judges of those courts, subject to the provisions of this constitution.

SEC. 20. On the first Monday in December, one thousand eight hundred and forty-eight, jurisdiction of all suits and proceedings then pending in the present supreme court shall become vested in the supreme court established by this constitution, and shall be finally adjudicated by the court where the same may be pending. The jurisdiction of all suits and proceedings then pending in the circuit courts of the several counties shall be vested in the circuit courts of said counties.

SEC. 21. The Cook and Jo Daviess County courts shall continue to exist, and the judge and other officers of the same remain in office, until otherwise provided by law.

SEC. 22. Until otherwise provided by law, the terms of the supreme court shall be held as follows: In the first division, on the first Monday of December, A. D. 1848, and annually thereafter; in the second division, on the third Monday of December, A. D. 1848, and annually thereafter; in the third division, on the first Monday of February, A. D. 1849, and annually thereafter. The sheriffs of Jefferson and La

Salle Counties shall perform the same duties and receive the same compensation as is required and provided for the sheriff of Sangamon County, until otherwise provided by law.

SEC. 23. Nothing in this constitution shall prevent the general assembly from passing such laws in relation to the apprenticeship of minors, during their minority, as may be necessary and proper.

SEC. 24. That the general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

SEC. 25. Elections of judges of the supreme and circuit courts shall be subject to be contested.

SEC. 26. Contested elections of judges of the supreme court shall be tried by the senate, and of judges of the circuit court by the supreme court, and the general assembly shall prescribe the manner of proceeding therein.

Done in convention, at the capitol, in the city of Springfield, on the thirty-first day of August, in the year of our Lord one thousand eight hundred and forty-seven, and of the Independence of the United States of America the seventy-second.

NEWTON CLOUD, *President*.

HENRY W. MOORE, *Secretary*.

HARMAN G. REYNOLDS, *Assistant Secretary*.

AMENDMENT TO THE CONSTITUTION OF 1848.

RATIFIED 1851.

ART. XV. There shall be annually assessed and collected, in the same manner as other State revenue may be assessed and collected, a tax of two mills upon each dollar's worth of taxable property, in addition to all other taxes, to be applied as follows, to wit: The fund so created shall be kept separate, and shall annually, on the first day of January, be apportioned and paid over, *pro rata*, upon all such State indebtedness, other than the canal and school indebtedness, as may, for that purpose, be presented by the holders of the same, to be entered as credits upon, and, to that intent, in extinguishment of the principal of said indebtedness.

CONSTITUTION OF ILLINOIS—1870.*

PREAMBLE.

We, the people of the State of Illinois, grateful to Almighty God for the civil, political, and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations, in order to form a more perfect government, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the State of Illinois.

ARTICLE I.

BOUNDARIES.

The boundaries and jurisdiction of the State shall be as follows, to wit: Beginning at the mouth of the Wabash River; thence up the same, and with the line of Indiana, to the northwest corner of said State; thence east, with the line of the same State, to the middle of Lake Michigan; thence north along the middle of said lake, to north latitude forty-two degrees and thirty minutes; thence west to the middle of

* Adopted in convention May 13, 1870, and ratified by the people July 2, 1870, receiving 154,227 votes against 35,443 votes.

the Mississippi River, and thence down along the middle of that river to its confluence with the Ohio River, and thence up the latter river, along its northwestern shore, to the place of beginning: *Provided*, That this State shall exercise such jurisdiction upon the Ohio River as she is now entitled to, or such as may hereafter be agreed upon by this State and the State of Kentucky.

ARTICLE II.

BILL OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, and the pursuit of happiness. To secure these rights and the protection of property, governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 2. No person shall be deprived of life, liberty, or property without due process of law.

SEC. 3. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege, or capacity on account of his religious opinions; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the State. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship.

SEC. 4. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty; and in all trials for libel, both civil and criminal, the truth, when published with good motives and for justifiable ends, shall be a sufficient defence.

SEC. 5. The right of trial by jury, as heretofore enjoyed, shall remain inviolate; but the trial of civil cases before justices of the peace by a jury of less than twelve men may be authorized by law.

SEC. 6. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue without probable cause, supported by affidavit, particularly describing the place to be searched and the persons or things to be seized.

SEC. 7. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 8. No person shall be held to answer for a criminal offence unless on indictment of a grand jury, except in cases in which the punishment is by fine, or imprisonment otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger: *Provided*, That the grand jury may be abolished by law in all cases.

SEC. 9. In all criminal prosecutions the accused shall have the right to appear and defend in person and by counsel; to demand the nature and cause of the accusation, and to have a copy thereof; to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed.

SEC. 10. No person shall be compelled in any criminal case to give evidence against himself, or be twice put in jeopardy for the same offence.

SEC. 11. All penalties shall be proportioned to the nature of the offence; and no conviction shall work corruption of blood or forfeiture of estate; nor shall any person be transported out of the State for any offence committed within the same.

SEC. 12. No person shall be imprisoned for debt, unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases where there is strong presumption of fraud.

SEC. 13. Private property shall not be taken or damaged for public use without just compensation. Such compensation, when not made by the State, shall be ascertained by a jury, as shall be prescribed by law. The fee of land taken for railroad tracks, without consent of the owners thereof, shall remain in such owners, subject to the use for which it is taken.

SEC. 14. No *ex post facto* law, or law impairing the obligation of contracts, or making any irrevocable grant of special privileges or immunities, shall be passed.

SEC. 15. The military shall be in strict subordination to the civil power.

SEC. 16. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war except in the manner prescribed by law.

SEC. 17. The people have the right to assemble in a peaceable manner to consult for the common good, to make known their opinions to their representatives, and to apply for redress of grievances.

SEC. 18. All elections shall be free and equal.

SEC. 19. Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property, or reputation; he ought to obtain, by law, right and justice freely and without being obliged to purchase it, completely and without denial, promptly and without delay.

SEC. 20. A frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty.

ARTICLE III.

DISTRIBUTION OF POWERS.

The powers of the government of this State are divided into three distinct departments, the legislative, executive, and judicial; and no person, or collection of persons, being one of these departments, shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

SEC. 2. An election for members of the general assembly shall be held on the Tuesday next after the first Monday in November, in the year of our Lord 1870, and every two years thereafter, in each county, at such places therein as may be provided by law. When vacancies occur in either house, the governor, or person exercising the powers of governor, shall issue writs of election to fill such vacancies.

SEC. 3. No person shall be a senator who shall not have attained the age of twenty-five years, or a representative who shall not have attained the age of twenty-one years. No person shall be a senator or representative who shall not be a citizen of the United States, and who shall not have been for five years a resident of this State, and for two years next preceding his election a resident within the territory forming the district from which he is elected. No judge or clerk of any court, secretary of state, attorney-general, State's attorney, recorder, sheriff, or collector of public revenue, member of either House of Congress, or person holding any lucrative office under the United States or this State, or any foreign government, shall have a seat in the general assembly: *Provided*, That appointments in the militia, and the offices of notary public and justice of the peace, shall not be considered lucrative. Nor shall any person holding any office of honor or profit under any foreign government, or under the Government of the United States, (except postmasters whose annual compensation does not exceed the sum of \$300,) hold any office of honor or profit under the authority of this State.

SEC. 4. No person who has been, or hereafter shall be, convicted of bribery, perjury, or other infamous crime, nor any person who has been or may be a collector or holder of public moneys, who shall not have accounted for and paid over, according to law, all such moneys due from him, shall be eligible to the general assembly, or to any office of profit or trust in this State.

SEC. 5. Members of the general assembly, before they enter upon their official duties, shall take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of the State of Illinois, and will faithfully discharge the duties of senator (or representative) according to the best of my ability; and that I have not, knowingly or intentionally, paid or contributed anything, or made any promise in the nature of a bribe, to directly or indirectly influence any vote at the election at which I was chosen to fill the said office, and have not accepted, nor will I accept or receive, directly or indirectly, any money or other valuable thing, from any corporation, company, or person, for any vote or influence I may give or withhold on any bill, resolution, or appropriation, or for any other official act."

This oath shall be administered by a judge of the supreme or circuit court in the hall of the house to which the member is elected, and the secretary of state shall record and file the oath subscribed by each member. Any member who shall refuse to take the oath herein prescribed shall forfeit his office, and every member who shall be convicted of having sworn falsely to or of violating his said oath shall forfeit his office and be disqualified thereafter from holding any office of profit or trust in this State.

SEC. 6. The general assembly shall apportion the State every ten years, beginning with the year 1871, by dividing the population of the State, as ascertained by the Federal census, by the number 51, and the quotient shall be the ratio of representation in the senate. The State shall be divided into fifty-one senatorial districts, each of which shall elect one senator, whose term of office shall be four years. The senators elected in the year of our Lord 1872, in districts bearing odd numbers, shall vacate their offices at the end of two years, and those elected in districts bearing even numbers, at the end of four years; and vacancies occurring by the expiration of term shall be filled by the election of senators for the full term. Senatorial districts shall be formed of contiguous and compact territory, bounded by county lines, and contain as nearly as practicable an equal number of inhabitants; but no district shall contain less than four-fifths of the senatorial ratio. Counties containing not less than the ratio and three-fourths may be divided into separate districts, and shall be entitled to two senators, and to one additional senator for each number of inhabitants equal to the ratio contained by such counties in excess of twice the number of said ratio.

NOTE.—By the adoption of minority representation, sections seven and eight of this article cease to be a part of the constitution; but since the apportionment of representatives for 1870 is governed by their provisions, the reader will find them in a note at the end. Under section twelve of the schedule, and the vote of adoption, the following section relating to minority representation is substituted for said sections:

SECS. 7 and 8. The house of representatives shall consist of three times the number of the members of the senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district at the general election in the year A. D. 1872, and every two years thereafter. In all elections of representatives aforesaid each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates, as he shall see fit; and the candidates highest in votes shall be declared elected.

SEC. 9. The sessions of the general assembly shall commence at twelve o'clock noon on the Wednesday next after the first Monday in January in the year next ensuing the election of members thereof, and at no other time, unless as provided by this constitution. A majority of the members elected to each house shall constitute a quorum. Each house shall determine the rules of its proceedings, and be the judge of the election, returns, and qualifications of its members; shall choose its own officers; and the senate shall choose a temporary president to preside when the lieutenant-governor shall not attend as president or shall act as governor. The secretary of state shall call the house of representatives to order at the opening of each new assembly, and preside over it until a temporary presiding officer thereof shall have been chosen and shall have taken his seat. No member shall be expelled by either house except by a vote of two-thirds of all the members elected to that house, and no member shall be

twice expelled for the same offence. Each house may punish by imprisonment any person not a member who shall be guilty of disrespect to the house by disorderly or contemptuous behavior in its presence; but no such imprisonment shall extend beyond twenty-four hours at one time, unless the person shall persist in such disorderly or contemptuous behavior.

SEC. 10. The doors of each house and of committees of the whole shall be kept open, except in such cases as, in the opinion of the house, require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, or to any other place than that in which the two houses shall be sitting. Each house shall keep a journal of its proceedings, which shall be published. In the senate, at the request of two members, and in the house, at the request of five members, the yeas and nays shall be taken on any question and entered upon the journal. Any two members of either house shall have liberty to dissent from and protest, in respectful language, against any act or resolution which they think injurious to the public or to any individual, and have the reasons of their dissent entered upon the journals.

SEC. 11. The style of the laws of this State shall be: "*Be it enacted by the people of the State of Illinois, represented in the general assembly.*"

SEC. 12. Bills may originate in either house, but may be altered, amended, or rejected by the other; and on the final passage of all bills the vote shall be by yeas and nays, upon each bill separately, and shall be entered upon the journal; and no bill shall become a law without the concurrence of a majority of the members elected to each house.

SEC. 13. Every bill shall be read at large on three different days in each house; and the bill, and all amendments thereto, shall be printed before the vote is taken on its final passage; and every bill, having passed both houses, shall be signed by the speakers thereof. No act hereafter passed shall embrace more than one subject, and that shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed; and no law shall be revived or amended by reference to its title only, but the law revived, or the section amended, shall be inserted at length in the new act. And no act of the general assembly shall take effect until the first day of July next after its passage, unless, in case of emergency, (which emergency shall be expressed in the preamble or body of the act,) the general assembly shall, by a vote of two-thirds of all the members elected to each house, otherwise direct.

SEC. 14. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

SEC. 15. No person elected to the general assembly shall receive any civil appointment within this State from the governor, the governor and senate, or from the general assembly, during the term for which he shall have been elected; and all such appointments, and all votes given for any such members for any such office or appointment, shall be void; nor shall any members of the general assembly be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he shall have been elected, or within one year after the expiration thereof.

SEC. 16. The general assembly shall make no appropriation of money out of the treasury in any private law. Bills making appropriations for the pay of members and officers of the general assembly, and for the salaries of the officers of the government, shall contain no provision on any other subject.

SEC. 17. No money shall be drawn from the treasury except in pursuance of an appropriation made by law, and on the presentation of a warrant issued by the auditor thereon; and no money shall be diverted from any appropriation made for any purpose, or taken from any fund whatever, either by joint or separate resolution. The auditor shall, within sixty days after the adjournment of each session of the general assembly, prepare and publish a full statement of all money expended at such session, specifying the amount of each item, and to whom and for what paid.

SEC. 18. Each general assembly shall provide for all the appropriations necessary

for the ordinary and contingent expenses of the government until the expiration of the first fiscal quarter after the adjournment of the next regular session, the aggregate amount of which shall not be increased without a vote of two-thirds of the members elected to each house, nor exceed the amount of revenue authorized by law to be raised in such time; and all appropriations, general or special, requiring money to be paid out of the State treasury from funds belonging to the State shall end with such fiscal quarter: *Provided*, The State may, to meet casual deficits or failures in revenues, contract debts, never to exceed in the aggregate \$250,000; and moneys thus borrowed shall be applied to the purpose for which they were obtained, or to pay the debt thus created, and to no other purpose; and no other debt, except for the purpose of repelling invasion, suppressing insurrection, or defending the State in war, (for payment of which the faith of the State shall be pledged,) shall be contracted, unless the law authorizing the same shall, at a general election, have been submitted to the people, and have received a majority of the votes cast for members of the general assembly at such election. The general assembly shall provide for the publication of said law for three months at least before the vote of the people shall be taken upon the same; and provision shall be made at the time for the payment of the interest annually, as it shall accrue, by a tax levied for the purpose, or from other sources of revenue; which law, providing for the payment of such interest by such tax, shall be irrevocable until such debt be paid: *And provided further*, That the law levying the tax shall be submitted to the people with the law authorizing the debt to be contracted.

SEC. 19. The general assembly shall never grant or authorize extra compensation, fee, or allowance to any public officer, agent, servant, or contractor, after service has been rendered or a contract made, nor authorize the payment of any claim, or part thereof, hereafter created against the State under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void: *Provided*, The general assembly may make appropriations for expenditures incurred in suppressing insurrection or repelling invasion.

SEC. 20. The State shall never pay, assume, or become responsible for the debts or liabilities of, or in any manner give, loan, or extend its credit to or in aid of, any public or other corporation, association, or individual.

SEC. 21. The members of the general assembly shall receive for their services the sum of five dollars per day during the first session held under this constitution, and ten cents for each mile necessarily traveled in going to and returning from the seat of government, to be computed by the auditor of public accounts; and thereafter such compensation as shall be prescribed by law, and no other allowance or emolument, directly or indirectly, for any purpose whatever, except the sum of fifty dollars per session to each member, which shall be in full for postage, stationery, newspapers, and all other incidental expenses and perquisites; but no change shall be made in the compensation of members of the general assembly during the term for which they may have been elected. The pay and mileage allowed to each member of the general assembly shall be certified by the speakers of their respective houses and entered on the journals, and published at the close of each session.

SEC. 22. The general assembly shall not pass local or special laws in any of the following-enumerated cases; that is to say, for—

- Granting divorces;
- Changing the names of persons or places;
- Laying out, opening, altering, and working roads or highways;
- Vacating roads, town-plats, streets, alleys, and public grounds;
- Locating or changing county-seats;
- Regulating county and township affairs;
- Regulating the practice in courts of justice;
- Regulating the jurisdiction and duties of justices of the peace, police-magistrates, and constables;
- Providing for changes of venue in civil and criminal cases;
- Incorporating cities, towns, or villages, or changing or amending the charter of any town, city, or village;

Providing for the election of members of the board of supervisors in townships, incorporated towns or cities ;

Summoning and impanelling grand or petit juries ;

Providing for the management of common schools ;

Regulating the rate of interest on money ;

The opening and conducting of any election, or designating the place of voting ;

The sale or mortgage of real estate belonging to minors or others under disability ;

The protection of game or fish ;

Chartering or licensing ferries or toll-bridges ;

Remitting fines, penalties, or forfeitures ;

Creating, increasing, or decreasing fees, percentage, or allowances of public officers, during the term for which said officers are elected or appointed ;

Changing the law of descent ;

Granting to any corporation, association, or individual the right to lay down railroad-tracks, or amending existing charters for such purpose ;

Granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever.

In all other cases, where a general law can be made applicable, no special law shall be enacted.

SEC. 23. The general assembly shall have no power to release or extinguish, in whole or in part, the indebtedness, liability, or obligation of any corporation or individual to this State, or to any municipal corporation therein.

SEC. 24. The house of representatives shall have the sole power of impeachment ; but a majority of all the members elected must concur therein. All impeachments shall be tried by the senate ; and, when sitting for that purpose, the senators shall be upon oath, or affirmation, to do justice according to law and evidence. When the governor of the State is tried the chief-justice shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected. But judgment, in such cases, shall not extend further than removal from office, and disqualification to hold any office of honor, profit, or trust under the government of this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law.

SEC. 25. The general assembly shall provide, by law, that the fuel, stationery, and printing-paper furnished for the use of the State ; the copying, printing, binding, and distributing the laws and journals, and all other printing ordered by the general assembly, shall be let by contract to the lowest responsible bidder ; but the general assembly shall fix a maximum price ; and no member thereof, or other officer of the State, shall be interested, directly or indirectly, in such contract. But all such contracts shall be subject to the approval of the governor, and if he disapproves the same there shall be a letting of the contract, in such manner as shall be prescribed by law.

SEC. 26. The State of Illinois shall never be made defendant in any court of law or equity.

SEC. 27. The general assembly shall have no power to authorize lotteries or gift-enterprises, for any purpose, and shall pass laws to prohibit the sale of lottery or gift-enterprise tickets in this State.

SEC. 28. No law shall be passed which shall operate to extend the term of any public officer after his election or appointment.

SEC. 29. It shall be the duty of the general assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, when the same may be required, and the construction of escapement-shafts, or such other appliances as may secure safety in all coal-mines, and to provide for the enforcement of said laws by such penalties and punishments as may be deemed proper.

SEC. 30. The general assembly may provide for establishing and opening roads and cartways, connected with a public road, for private and public use.

SEC. 31. The general assembly may pass laws permitting the owners or occupants of lands to construct drains and ditches, for agricultural and sanitary purposes, across the lands of others.

SEC. 32. The general assembly shall pass liberal homestead and exemption laws.

SEC. 33. The general assembly shall not appropriate out of the State treasury, or expend on account of the new capitol grounds, and construction, completion, and furnishing of the state-house, a sum exceeding, in the aggregate, \$3,500,000, inclusive of all appropriations heretofore made, without first submitting the proposition for an additional expenditure to the legal voters of the State, at a general election; nor unless a majority of all the votes cast at such election shall be for the proposed additional expenditure.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of public accounts, treasurer, superintendent of public instruction, and attorney-general, who shall each, with the exception of the treasurer, hold his office for the term of four years from the second Monday of January next after his election, and until his successor is elected and qualified. They shall, except the lieutenant-governor, reside at the seat of government during their term of office, and keep the public records, books, and papers there, and shall perform such duties as may be prescribed by law.

SEC. 2. The treasurer shall hold his office for the term of two years, and until his successor is elected and qualified; and shall be ineligible to said office for two years next after the end of the term for which he was elected. He may be required by the governor to give reasonable additional security, and in default of so doing his office shall be deemed vacant.

SEC. 3. An election for governor, lieutenant-governor, secretary of state, auditor of public accounts, and attorney-general shall be held on the Tuesday next after the first Monday of November, in the year of our Lord 1872, and every four years thereafter; for superintendent of public instruction, on the Tuesday next after the first Monday of November, in the year 1870, and every four years thereafter; and for treasurer on the day last above mentioned, and every two years thereafter, at such places and in such manner as may be prescribed by law.

SEC. 4. The returns of every election for the above-named officers shall be sealed up and transmitted, by the returning-officers, to the secretary of state, directed to the "Speaker of the House of Representatives," who shall, immediately after the organization of the house, and before proceeding to other business, open and publish the same in the presence of a majority of each house of the general assembly, who shall, for that purpose, assemble in the hall of the house of representatives. The person having the highest number of votes for either of said offices shall be declared duly elected; but if two or more have an equal, and the highest, number of votes, the general assembly shall, by joint ballot, choose one of such persons for said office. Contested elections for all of said offices shall be determined by both houses of the general assembly, by joint ballot, in such manner as may be prescribed by law.

SEC. 5. No person shall be eligible to the office of governor or lieutenant-governor who shall not have attained the age of thirty years, and been for five years next preceding his election a citizen of the United States and of this State. Neither the governor or lieutenant-governor, auditor of public accounts, secretary of state, superintendent of public instruction, nor attorney-general shall be eligible to any other office during the period for which he shall have been elected.

SEC. 6. The supreme executive power shall be vested in the governor, who shall take care that the laws be faithfully executed.

SEC. 7. The governor shall, at the commencement of each session, and at the close of his term of office, give to the general assembly information, by message, of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall account to the general assembly, and accompany his message with a statement of all moneys received and paid out by him from any funds subject to his order, with vouchers, and at the commencement of each regular session present estimates of the amount of money required to be raised by taxation for all purposes.

SEC. 8. The governor may, on extraordinary occasions, convene the general assembly, by proclamation, stating therein the purpose for which they are convened;

and the general assembly shall enter upon no business except that for which they were called together.

SEC. 9. In case of a disagreement between the two houses with respect to the time of adjournment, the governor may, on the same being certified to him by the house first moving the adjournment, adjourn the general assembly to such time as he thinks proper, not beyond the first day of the next regular session.

SEC. 10. The governor shall nominate and, by and with the advice and consent of the senate, (a majority of all the senators elected concurring, by yeas and nays,) appoint all officers whose offices are established by this constitution, or which may be created by law, and whose appointment or election is not otherwise provided for; and no such officer shall be appointed or elected by the general assembly.

SEC. 11. In case of a vacancy, during the recess of the senate, in any office which is not elective, the governor shall make a temporary appointment until the next meeting of the senate, when he shall nominate some person to fill such office; and any person so nominated, who is confirmed by the senate, (a majority of all the senators elected concurring by yeas and nays,) shall hold his office during the remainder of the term, and until his successor shall be appointed and qualified. No person, after being rejected by the senate, shall be again nominated for the same office at the same session, unless at the request of the senate, or be appointed to the same office during the recess of the general assembly.

SEC. 12. The governor shall have power to remove any officer whom he may appoint, in case of incompetency, neglect of duty, or malfeasance in office; and he may declare his office vacant, and fill the same as is herein provided in other cases of vacancy.

SEC. 13. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offences, subject to such regulations as may be provided by law relative to the manner of applying therefor.

SEC. 14. The governor shall be commander-in-chief of the military and naval forces of the State, (except when they shall be called into the service of the United States,) and may call out the same to execute the laws, suppress insurrection, and repel invasion.

SEC. 15. The governor, and all civil officers of this State, shall be liable to impeachment for any misdemeanor in office.

SEC. 16. Every bill passed by the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, and thereupon it shall become a law; but if he do not approve, he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journal, and proceed to reconsider the bill. If then two-thirds of the members elected agree to pass the same, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law, notwithstanding the objections of the governor. But in all such cases, the vote of each house shall be determined by yeas and nays, to be entered on the journal. Any bill which shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, shall become a law in like manner as if he had signed it, unless the general assembly shall, by their adjournment, prevent its return; in which case it shall be filed, with his objections, in the office of the secretary of state, within ten days after such adjournment, or become a law.

SEC. 17. In case of the death, conviction on impeachment, failure to qualify, resignation, absence from the State, or other disability of the governor, the powers, duties, and emoluments of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the lieutenant-governor.

SEC. 18. The lieutenant-governor shall be president of the senate, and shall vote only when the senate is equally divided. The senate shall choose a president *pro tempore*, to preside in case of the absence or impeachment of the lieutenant-governor, or when he shall hold the office of governor.

SEC. 19. If there be no lieutenant-governor, or if the lieutenant-governor shall, for any of the causes specified in section seventeen of this article, become incapable of perform-

ing the duties of the office, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above-named causes, shall become incapable of performing the duties of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 20. If the office of auditor of public accounts, treasurer, secretary of state, attorney-general, or superintendent of public instruction shall be vacated by death, resignation, or otherwise, it shall be the duty of the governor to fill the same by appointment, and the appointee shall hold his office until his successor shall be elected and qualified in such manner as may be provided by law. An account shall be kept by the officers of the executive department, and of all the public institutions of the State, of all moneys received or disbursed by them, severally, from all sources, and for every service performed, and a semi-annual report thereof be made to the governor, under oath; and any officer who makes a false report shall be guilty of perjury, and punished accordingly.

SEC. 21. The officers of the executive department, and of all the public institutions of the State, shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such report to the general assembly, together with the reports of the judges of the supreme court, of defects in the constitution and laws; and the governor may at any time require information, in writing, under oath, from the officers of the executive department, and all officers and managers of State institutions, upon any subject relating to the condition, management, and expenses of their respective offices.

SEC. 22. There shall be a seal of the State, which shall be called the "Great Seal of the State of Illinois," which shall be kept by the secretary of state, and used by him, officially, as directed by law.

SEC. 23. The officers named in this article shall receive for their services a salary, to be established by law, which shall not be increased or diminished during their official terms, and they shall not, after the expiration of the terms of those in office at the adoption of this constitution, receive to their own use any fees, costs, perquisites of office, or other compensation. And all fees that may hereafter be payable by law for any services performed by any officer provided for in this article of the constitution shall be paid in advance into the State treasury.

SEC. 24. An office is a public position created by the constitution or law, continuing during the pleasure of the appointing power, or for a fixed time, with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished.

SEC. 25. All civil officers, except members of the general assembly and such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United State, and the constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of ——— according to the best of my ability."

And no other oath, declaration, or test shall be required as a qualification.

ARTICLE VI.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial powers, except as in this article is otherwise provided, shall be vested in one supreme court, circuit courts, county courts, justices of the peace, police-magistrates, and in such courts as may be created by law in and for cities and incorporated towns.

SEC. 2. The supreme court shall consist of seven judges, and shall have original jurisdiction in cases relating to the revenue, in *mandamus*, and *habeas corpus*, and appellate jurisdiction in all other cases. One of said judges shall be chief-justice; four shall constitute a quorum, and the concurrence of four shall be necessary to every decision.

SEC. 3. No person shall be eligible to the office of judge of the supreme court unless he shall be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the district in which he shall be elected.

SEC. 4. Terms of the supreme court shall continue to be held in the present grand divisions at the several places now provided for holding the same; and until otherwise provided by law, one or more terms of said court shall be held, for the northern division, in the city of Chicago, each year, at such times as said court may appoint, whenever said city or the county of Cook shall provide appropriate rooms therefor, and the use of a suitable library, without expense to the State. The judicial divisions may be altered, increased, or diminished in number, and the times and places of holding said court may be changed by law.

SEC. 5. The present grand divisions shall be preserved, and be denominated southern, central, and northern, until otherwise provided by law. The State shall be divided into seven districts for the election of judges, and, until otherwise provided by law, they shall be as follows:

First District.—The counties of Saint Clair, Clinton, Washington, Jefferson, Wayne, Edwards, Wabash, White, Hamilton, Franklin, Perry, Randolph, Monroe, Jackson, Williamson, Saline, Gallatin, Hardin, Pope, Union, Johnson, Alexander, Pulaski, and Massac.

Second District.—The counties of Madison, Bond, Marion, Clay, Richland, Lawrence, Crawford, Jasper, Effingham, Fayette, Montgomery, Macoupin, Shelby, Cumberland, Clark, Greene, Jersey, Calhoun, and Christian.

Third District.—The counties of Sangamon, Macon, Logan, De Witt, Piatt, Douglas, Champaign, Vermillion, McLean, Livingston, Ford, Iroquois, Coles, Edgar, Moultrie, and Tazewell.

Fourth District.—The counties of Fulton, McDonough, Hancock, Schuyler, Brown, Adams, Pike, Mason, Menard, Morgan, Cass, and Scott.

Fifth District.—The counties of Knox, Warren, Henderson, Mercer, Henry, Stark, Peoria, Marshall, Putnam, Bureau, La Salle, Grundy, and Woodford.

Sixth District.—The counties of Whitesides, Carroll, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Kane, Kendall, De Kalb, Lee, Ogle, and Rock Island.

Seventh District.—The counties of Lake, Cook, Will, Kankakee, and Du Page.

The boundaries of the districts may be changed at the session of the general assembly next preceding the election for judges therein, and at no other time; but whenever such alterations shall be made, the same shall be upon the rule of equality of population, as nearly as county boundaries will allow, and the districts shall be composed of contiguous counties, in as nearly compact form as circumstances will permit. The alteration of the districts shall not affect the tenure of office of any judge.

SEC. 6. At the time of voting on the adoption of this constitution, one judge of the supreme court shall be elected by the electors thereof, in each of said districts numbered two, three, six, and seven, who shall hold his office for the term of nine years from the first Monday of June, in the year of our Lord 1870. The term of office of judges of the supreme court, elected after the adoption of this constitution, shall be nine years; and on the first Monday of June of the year in which the term of any of the judges in office at the adoption of this constitution, or of the judges then elected, shall expire, and every nine years thereafter, there shall be an election for the successor or successors of such judges, in the respective districts wherein the term of such office shall expire. The chief-justice shall continue to act as such until the expiration of the term for which he was elected, after which the judges shall choose one of their number chief-justice.

SEC. 7. From and after adoption of this constitution, the judges of the supreme court shall each receive a salary of \$4,000 per annum, payable quarterly, until otherwise provided by law. And after said salaries shall be fixed by law, the salaries of the judges in office shall not be increased or diminished during the terms for which said judges shall have been elected.

SEC. 8. Appeals and writs of error may be taken to the supreme court, held in the

grand division in which the case is decided, or, by consent of the parties, to any other grand division.

SEC. 9. The supreme court shall appoint one reporter of its decisions, who shall hold his office for six years, subject to removal by the court.

SEC. 10. At the time of the election for representatives in the general assembly, happening next preceding the expiration of the terms of office of the present clerks of said court, one clerk of said court for each division shall be elected whose term of office shall be six years from said election, but who shall not enter upon the duties of his office until the expiration of the term of his predecessor, and every six years thereafter one clerk of said court for each division shall be elected.

SEC. 11. After the year of our Lord 1874 inferior appellate courts, of uniform organization and jurisdiction, may be created in districts formed for that purpose, to which such appeals and writs of error as the general assembly may provide may be prosecuted from circuit and other courts, and from which appeals and writs of error shall lie to the supreme court, in all criminal cases, and cases in which a franchise, or freehold, or the validity of a statute is involved, and in such other cases as may be provided by law. Such appellate courts shall be held by such number of judges of the circuit courts, and at such times and places, and in such manner, as may be provided by law; but no judge shall sit in review upon cases decided by him; nor shall said judges receive any additional compensation for such services.

SEC. 12. The circuit courts shall have original jurisdiction of all causes in law and equity, and such appellate jurisdiction as is or may be provided by law, and shall hold two or more terms each year in every county. The terms of office of judges of circuit courts shall be six years.

SEC. 13. The State, exclusive of the county of Cook and other counties having a population of one hundred thousand, shall be divided into judicial circuits, prior to the expiration of the terms of office of the present judges of the circuit courts. Such circuits shall be formed of contiguous counties, in as nearly compact form and as nearly equal as circumstances will permit, having due regard to business, territory, and population, and shall not exceed in number one circuit for every one hundred thousand of population in the State. One judge shall be elected for each of said circuits by the electors thereof. New circuits may be formed and the boundaries of circuits changed by the general assembly, at its session next preceding the election for circuit judges, but at no other time: *Provided*, That the circuits may be equalized or changed at the first session of the general assembly after the adoption of this constitution. The creation, alteration, or change of any circuit shall not affect the tenure of office of any judge. Whenever the business of the circuit court of any one, or of two or more contiguous counties containing a population exceeding fifty thousand, shall occupy nine months of the year, the general assembly may make of such county or counties, a separate circuit. Whenever additional circuits are created, the foregoing limitations shall be observed.

SEC. 14. The general assembly shall provide for the times of holding court in each county; which shall not be changed, except by the general assembly next preceding the general election for judges of said courts; but additional terms may be provided for in any county. The election for judges of the circuit court shall be held on the first Monday in June, in the year of our Lord 1873, and every six years thereafter.

SEC. 15. The general assembly may divide the State into judicial circuits of greater population and territory, in lieu of the circuits provided for in section thirteen of this article, and provide for the election therein, severally, by the electors thereof, by general ticket, of not exceeding four judges, who shall hold the circuit courts in the circuit for which they shall be elected, in such manner as may be provided by law.

SEC. 16. From and after the adoption of this constitution, judges of the circuit courts shall receive a salary of \$3,000 per annum, payable quarterly, until otherwise provided by law. And after their salaries shall be fixed by law, they shall not be increased or diminished during the terms for which said judges shall be, respectively, elected; and from and after the adoption of this constitution, no judge of the supreme or circuit court shall receive any other compensation, perquisite, or benefit, in any form

whatsoever, nor perform any other than judicial duties to which may belong any emoluments.

SEC. 17. No person shall be eligible to the office of judge of the circuit or any inferior court, or to membership in the "board of county commissioners," unless he shall be at least twenty-five years of age, and a citizen of the United States, nor unless he shall have resided in this State five years next preceding his election, and be a resident of the circuit, county, city, cities, or incorporated town in which he shall be elected.

SEC. 18. There shall be elected in and for each county, one county judge and one clerk of the county court, whose terms of office shall be four years. But the general assembly may create districts of two or more contiguous counties, in each of which shall be elected one judge, who shall take the place of and exercise the powers and jurisdiction of county judges in such districts. County courts shall be courts of record, and shall have original jurisdiction in all matters of probate; settlement of estates of deceased persons; appointment of guardians and conservators, and settlements of their accounts; in all matters relating to apprentices; and in proceeding for the collection of taxes and assessments, and such other jurisdiction as may be provided for by general law.

SEC. 19. Appeals and writs of error shall be allowed from final determinations of county courts, as may be provided by law.

SEC. 20. The general assembly may provide for the establishment of a probate court in each county having a population of over fifty thousand, and for the election of a judge thereof, whose term of office shall be the same as that of the county judge, and who shall be elected at the same time and in the same manner. Said courts, when established, shall have original jurisdiction of all probate matters, the settlement of estates of deceased persons, the appointment of guardians and conservators, and settlements of their accounts; in all matters relating to apprentices, and in all cases of the sales of real estate of deceased persons for the payment of debts.

SEC. 21. Justices of the peace, police-magistrates, and constables shall be elected in and for such districts as are or may be provided by law, and the jurisdiction of such justices of the peace and police-magistrates shall be uniform.

SEC. 22. At the election for members of the general assembly in the year of our Lord 1872, and every four years thereafter, there shall be elected a State's attorney in and for each county, in lieu of the State's attorneys now provided by law, whose term of office shall be four years.

SEC. 23. The county of Cook shall be one judicial circuit. The circuit court of Cook County shall consist of five judges, until their number shall be increased, as herein provided. The present judge of the recorder's court of the city of Chicago, and the present judge of the circuit court of Cook County, shall be two of said judges, and shall remain in office for the terms for which they were respectively elected, and until their successors shall be elected and qualified. The superior court of Chicago shall be continued, and called the superior court of Cook County. The general assembly may increase the number of said judges, by adding one to either of said courts for every additional fifty thousand inhabitants of said county, over and above a population of four hundred thousand. The terms of office of the judges of said courts hereafter shall be elected six years.

SEC. 24. The judge having the shortest unexpired term shall be chief-justice of the court of which he is a judge. In case there are two or more whose terms expire at the same time, it may be determined by lot which shall be chief-justice. Any judge of either of said courts shall have all the powers of a circuit judge, and may hold the court of which he is a member. Each of them may hold a different branch thereof at the same time.

SEC. 25. The judges of the superior and circuit courts, and the State's attorney, in said county, shall receive the same salaries, payable out of the State treasury, as is or may be paid from said treasury to the circuit judges and State's attorneys of the State, and such further compensation to be paid by the county of Cook as is or may be provided by law; such compensation shall not be changed during their continuance in office.

SEC. 26. The recorder's court of the city of Chicago shall be continued, and shall be called the "criminal court of Cook County." It shall have the jurisdiction of a

circuit court, in all cases of criminal and *quasi* criminal nature, arising in the county of Cook, or that may be brought before said court pursuant to law; and all recognizances and appeals taken in said county in criminal and *quasi* criminal cases shall be returnable and taken to said court. It shall have no jurisdiction in civil cases, except in those on behalf of the people, and incident to such criminal or *quasi* criminal matters, and to dispose of unfinished business. The terms of said criminal court of Cook County shall be held by one or more of the judges of the circuit or superior court of Cook County, as nearly as may be in alternation, as may be determined by said judges, or provided by law. Said judges shall be *ex-officio* judges of said court.

SEC. 27. The present clerk of the recorder's court of the city of Chicago shall be the clerk of the criminal court of Cook County during the term for which he was elected. The present clerks of the superior court of Chicago, and the present clerk of the circuit court of Cook County, shall continue in office during the terms for which they were respectively elected; and thereafter there shall be but one clerk of the superior court, to be elected by the qualified electors of said county, who shall hold his office for the term of four years, and until his successor is elected and qualified.

SEC. 28. All justices of the peace in the city of Chicago shall be appointed by the governor, by and with the advice and consent of the senate, (but only upon the recommendation of a majority of the judges of the circuit, superior, and county courts,) and for such districts as are now or shall hereafter be provided by law. They shall hold their offices for four years, and until their successors have been commissioned and qualified, but they may be removed by summary proceeding in the circuit or superior court, for extortion or other malfeasance. Existing justices of the peace and police-magistrates may hold their offices until the expiration of their respective terms.

SEC. 29. All judicial officers shall be commissioned by the governor. All laws relating to courts shall be general, and of uniform operation; and the organization, jurisdiction, powers, proceedings, and practice of all courts, of the same class or grade, so far as regulated by law, and the force and effect of the process, judgments, and decrees of such courts, severally, shall be uniform.

SEC. 30. The general assembly may, for cause entered on the journals, upon due notice and opportunity of defence, remove from office any judge, upon concurrence of three-fourths of all the members elected of each house. All other officers in this article mentioned shall be removed from office on prosecution and final conviction, for misdemeanor in office.

SEC. 31. All judges of courts of record, inferior to the supreme court, shall, on or before the first day of June, of each year, report in writing to the judges of the supreme court such defects and omissions in the laws as their experience may suggest; and the judges of the supreme court shall, on or before the first day of January, of each year, report in writing to the governor such defects and omissions in the constitution and laws as they may find to exist, together with appropriate forms of bills to cure such defects and omissions in the laws. And the judges of the several circuit courts shall report to the next general assembly the number of days they have held court, in the several counties composing their respective circuits, the preceding two years.

SEC. 32. All officers provided for in this article shall hold their offices until their successors shall be qualified, and they shall, respectively, reside in the division, circuit, county, or district for which they may be elected or appointed. The terms of office of all such officers, where not otherwise prescribed in this article, shall be four years. All officers, where not otherwise provided for in this article, shall perform such duties and receive such compensation as is, or may be, provided by law. Vacancies in such elective offices shall be filled by election; but where the unexpired term does not exceed one year, the vacancy shall be filled by appointment, as follows: Of judges, by the governor; of clerks of courts, by the court to which the office appertains, or by the judge or judges thereof; and of all such other offices, by the board of supervisors, or board of county commissioners, in the county where the vacancy occurs.

SEC. 33. All process shall run "In the name of the people of the State of Illinois;" and all prosecutions shall be carried on "In the name and by the authority of the people of the State of Illinois;" and conclude, "Against the peace and dignity of the same." "Population," wherever used in this article, shall be determined by the next preceding census of this State, or of the United States.

ARTICLE VII.

SUFFRAGE.

SECTION 1. Every person having resided in this State one year, in the county ninety days, and in the election-district thirty days next preceding any election therein, who was an elector in this State on the 1st day of April, in the year of our Lord 1848, or obtained a certificate of naturalization, before any court of record in this State, prior to the 1st day of January, in the year of our Lord 1870, or who shall be a male citizen of the United States above the age of twenty-one years, shall be entitled to vote at such election.

SEC. 2. All votes shall be by ballot.

SEC. 3. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from the same. And no elector shall be obliged to do military duty on the days of election, except in time of war or public danger.

SEC. 4. No elector shall be deemed to have lost his residence in this State by reason of his absence on the business of the United States, or of this State, or in the military or naval service of the United States.

SEC. 5. No soldier, seaman, or marine in the Army or Navy of the United States shall be deemed a resident of this State in consequence of being stationed therein.

SEC. 6. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States, and who shall not have resided in this State one year next preceding the election or appointment.

SEC. 7. The general assembly shall pass laws excluding from the right of suffrage persons convicted of infamous crimes.

ARTICLE VIII.

EDUCATION.

SECTION 1. The general assembly shall provide a thorough and efficient system of free schools, whereby all the children of this State may receive a good common-school education.

SEC. 2. All lands, moneys, or other property donated, granted, or received for school, college, seminary, or university purposes, and the proceeds thereof, shall be faithfully applied to the objects for which such gifts or grants were made.

SEC. 3. Neither the general assembly nor any county, city, town, township, school-district, or other public corporation, shall ever make any appropriation, or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money, or other personal property ever be made by the State, or any such corporation, to any church, or for any sectarian purpose.

SEC. 4. No teacher, State, county, township, or district-school officer shall be interested in the sale, proceeds, or profits of any book, apparatus, or furniture used, or to be used, in any school in this State, with which such officer or teacher may be connected, under such penalties as may be provided by the general assembly.

SEC. 5. There may be a county superintendent of schools in each county, whose qualifications, powers, duties, compensation, and time and manner of election, and term of office shall be prescribed by law.

ARTICLE IX.

REVENUE.

SECTION 1. The general assembly shall provide such revenue as may be needful, by levying a tax, by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her, or its property; such value to be ascertained by some person or persons, to be elected or appointed in such manner as the general

assembly shall direct, and not otherwise; but the general assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission-merchants, show-men, jugglers, innkeepers, grocery-keepers, liquor-dealers, toll-bridges, ferries, insurance, telegraph, and express interests or business, venders of patents, and persons or corporations owning or using franchises and privileges, in such manner as it shall, from time to time, direct by general law, uniform as to the class upon which it operates.

SEC. 2. The specification of the objects and subjects of taxation shall not deprive the general assembly of the power to require other subjects or objects to be taxed, in such manner as may be consistent with the principles of taxation fixed in this constitution.

SEC. 3. The property of the State, counties, and other municipal corporations, both real and personal, and such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery, and charitable purposes, may be exempted from taxation; but such exemption shall be only by general law. In the assessment of real estate encumbered by public easement, any depreciation occasioned by such easement may be deducted in the valuation of such property.

SEC. 4. The general assembly shall provide, in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments for State, county, municipal, or other purposes, that a return of such unpaid taxes or assessments shall be made to some general officer of the county having authority to receive State and county taxes; and there shall be no sale of the said property for any of said taxes or assessments but by said officer, upon the order or judgment of some court of record.

SEC. 5. The right of redemption from all sales of real estate for the non-payment of taxes or special assessments of any character whatever, shall exist in favor of owners and persons interested in such real estate, for a period of not less than two years from such sales thereof. And the general assembly shall provide by law for reasonable notice to be given to the owners and parties interested, by publication or otherwise, of the fact of the sale of property for such taxes or assessments, and when the time of redemption shall expire: *Provided*, That occupants shall in all cases be served with personal notice before the time of redemption expires.

SEC. 6. The general assembly shall have no power to release or discharge any county, city, township, town, or district whatever, or the inhabitants thereof, or the property therein, from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever.

SEC. 7. All taxes levied for State purposes shall be paid into the State treasury.

SEC. 8. County authorities shall never assess taxes, the aggregates of which shall exceed seventy-five cents per one hundred dollars valuation, except for the payment of indebtedness existing at the adoption of this constitution, unless authorized by a vote of the people of the county.

SEC. 9. The general assembly may vest the corporate authorities of cities, towns, and villages with power to make local improvement by special assessment, or by special taxation of contiguous property, or otherwise. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but such taxes shall be uniform, in respect to persons and property, within the jurisdiction of the body imposing the same.

SEC. 10. The general assembly shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes, but shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. Private property shall not be liable to be taken or sold for the payment of the corporate debts of a municipal corporation.

SEC. 11. No person who is in default, as collector or custodian of money or property belonging to a municipal corporation, shall be eligible to any office in or under such corporation. The fees, salary, or compensation of no municipal officer who is elected or appointed for a definite term of office, shall be increased or diminished during such term.

SEC. 12. No county, city, township, school-district, or other municipal corporation shall be allowed to become indebted in any manner or for any purpose, to an amount, including existing indebtedness, in the aggregate exceeding five per centum on the value of the taxable property therein, to be ascertained by the last assessment for the State and county taxes, previous to the incurring of such indebtedness. Any county, city, school-district, or other municipal corporation, incurring any indebtedness as aforesaid, shall, before or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal thereof within twenty years from the time of contracting the same. This section shall not be construed to prevent any county, city, township, school-district, or other municipal corporation, from issuing their bonds in compliance with any vote of the people which may have been had prior to the adoption of this constitution in pursuance of any law providing therefor.

ARTICLE X.

COUNTIES.

SECTION 1. No new county shall be formed or established by the general assembly which will reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles; nor shall any county be formed of less contents; nor shall any line thereof pass within less than ten miles of any county-seat of the county or counties proposed to be divided.

SEC. 2. No county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the people of the county, nor unless a majority of all the legal voters of the county, voting on the question, shall vote for the same.

SEC. 3. There shall be no territory stricken from any county, unless a majority of the voters living in such territory shall petition for such division; and no territory shall be added to any county without the consent of the majority of the voters of the county to which it is proposed to be added. But the portion so stricken off and added to another county, or formed in whole or in part into a new county, shall be holden for, and obliged to pay, its proportion of the indebtedness of the county from which it has been taken.

SEC. 4. No county-seat shall be removed until the point to which it is proposed to be removed shall be fixed in pursuance of law, and three-fifths of the voters of the county, to be ascertained in such manner as shall be provided by general law, shall have voted in favor of its removal to such point; and no person shall vote on such question who has not resided in the county six months, and in the election precinct ninety days next preceding such election. The question of the removal of a county seat shall not be oftener submitted than once in ten years, to a vote of the people; but when an attempt is made to remove a county-seat to a point nearer to the centre of a county, then a majority vote only shall be necessary.

SEC. 5. The general assembly shall provide, by general law, for township organization, under which any county may organize whenever a majority of the legal voters of such county, voting at any general election, shall so determine; and whenever any county shall adopt township organization, so much of this constitution as provides for the management of the fiscal concerns of the said county by the board of county commissioners may be dispensed with, and the affairs of said county may be transacted in such manner as the general assembly may provide. And in any county that shall have adopted a township organization, the question of continuing the same may be submitted to a vote of the electors of such county, at a general election, in the manner that now is or may be provided by law; and if a majority of all the votes cast upon that question shall be against township organization, then such organization shall cease in said county; and all laws in force in relation to counties not having township organization shall immediately take effect and be in force in such county. No two townships shall have the same name, and the day of holding the annual township meeting shall be uniform throughout the State.

SEC. 6. At the first election of county judges under this constitution there shall be elected in each of the counties of this State, not under township organization, three

officers, who shall be styled "the board of county commissioners," who shall hold sessions for the transaction of county business as shall be provided by law. One of said commissioners shall hold his office for one year, one for two years, and one for three years, to be determined by lot; and every year thereafter one such officer shall be elected in each of said counties for the term of three years.

SEC. 7. The county affairs of Cook County shall be managed by a board of commissioners of fifteen persons, ten of whom shall be elected from the city of Chicago, and five from towns outside of said city, in such manner as may be provided by law.

SEC. 8. In each county there shall be elected the following county officers: County judge, sheriff, county clerk, clerk of the circuit court, (who may be *ex-officio* recorder of deeds, except in counties having sixty thousand and more inhabitants, in which counties a recorder of deeds shall be elected at the general election in the year of our Lord 1872,) treasurer, surveyor, and coroner, each of whom shall enter upon the duties of his office, respectively, on the first Monday of December after their election; and they shall hold their respective offices for the term of four years, except the treasurer, sheriff, and coroner, who shall hold their offices for two years, and until their successors shall be elected and qualified.

SEC. 9. The clerks of all the courts of record, the treasurer, sheriff, coroner, and recorder of deeds of Cook County shall receive, as their only compensation for their services, salaries to be fixed by law, which shall in no case be as much as the lawful compensation of a judge of the circuit court of said county, and shall be paid, respectively, only out of the fees of the office actually collected. All fees, perquisites, and emoluments (above the amount of said salaries) shall be paid into the county treasury. The number of the deputies and assistants of such officers shall be determined by rule of the circuit court, to be entered of record, and their compensation shall be determined by the county board.

SEC. 10. The county board, except as provided in section nine of this article, shall fix the compensation of all county officers, with the amount of their necessary clerk-hire, stationery, fuel, and other expenses; and in all cases where fees are provided for, said compensation shall be paid only out of, and shall in no instance exceed, the fees actually collected. They shall not allow either of them more per annum than \$1,500, in counties not exceeding 20,000 inhabitants; \$2,000 in counties containing 20,000 and not exceeding 30,000 inhabitants; \$2,500 in counties containing 30,000 and not exceeding 50,000 inhabitants; \$3,000 in counties containing 50,000 and not exceeding 70,000 inhabitants; \$3,500 in counties containing 70,000 and not exceeding 100,000 inhabitants; and \$4,000 in counties containing over 100,000 and not exceeding 250,000 inhabitants; and not more than \$1,000 additional compensation for each additional 100,000 inhabitants: *Provided*, That the compensation of no officer shall be increased or diminished during his term of office. All fees or allowances by them received, in excess of their said compensation, shall be paid into the county treasury.

SEC. 11. The fees of township officers, and of each class of county officers, shall be uniform in the class of counties to which they respectively belong. The compensation herein provided for shall apply only to officers hereafter elected, but all fees established by special laws shall cease at the adoption of this constitution, and such officers shall receive only such fees as are provided by general law.

SEC. 12. All laws fixing the fees of State, county, and township officers shall terminate with the terms, respectively, of those who may be in office at the meeting of the first general assembly after the adoption of this constitution; and the general assembly shall, by general law, uniform in its operation, provide for and regulate the fees of said officers and their successors, so as to reduce the same to a reasonable compensation for services actually rendered. But the general assembly may, by general law, classify the counties by population into not more than three classes, and regulate the fees according to class. This article shall not be construed as depriving the general assembly of the power to reduce the fees of existing officers.

SEC. 13. Every person who is elected or appointed to any office in this State, who shall be paid in whole or in part by fees, shall be required by law to make a semi-annual report, under oath, to some officer to be designated by law, of all his fees and emoluments.

ARTICLE XI.

CORPORATIONS.

SECTION 1. No corporation shall be created by special laws, or its charter extended, changed, or amended, except those for charitable, educational, penal, or reformatory purposes, which are to be and remain under the patronage and control of the State, but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created.

SEC. 2. All existing charters or grants of special or exclusive privileges, under which organization shall not have taken place, or which shall not have been in operation within ten days from the time this constitution takes effect, shall thereafter have no validity or effect whatever.

SEC. 3. The general assembly shall provide by law that in all elections for directors or managers of incorporated companies every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner.

SEC. 4. No law shall be passed by the general assembly granting the right to construct and operate a street-railroad within any city, town, or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied by such street-railroad.

SEC. 5. No State bank shall hereafter be created, nor shall the State own or be liable for any stock in any corporation or joint-stock company or association for banking purposes, now created, or to be hereafter created. No act of the general assembly authorizing or creating corporations or associations, with banking powers, whether of issue, deposit, or discount, nor amendments thereto, shall go into effect, or in any manner be in force, unless the same shall be submitted to a vote of the people at the general election next succeeding the passage of the same, and be approved by a majority of all the votes cast at such election for or against such law.

SEC. 6. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

SEC. 7. The suspension of specie payments by banking institutions, on their circulation, created by the laws of this State, shall never be permitted or sanctioned. Every banking association now, or which may hereafter be, organized under the laws of this State, shall make and publish a full and accurate quarterly statement of its affairs, (which shall be certified to, under oath, by one or more of its officers,) as may be provided by law.

SEC. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills or paper credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State treasurer, in United States or Illinois State stocks, to be rated at 10 per cent. below their par value; and in case of a depreciation of said stocks to the amount of 10 per cent. below par, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks. And said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer thereof, and to whom such transfer is made.

SEC. 9. Every railroad corporation organized, or doing business in this State, under the laws or authority thereof, shall have and maintain a public office or place in this State for the transaction of its business, where transfers of stock shall be made, and in which shall be kept, for public inspection, books, in which shall be recorded the amount of capital stock subscribed, and by whom; the names of the owners of its stock, and the amounts owned by them respectively; the amount of stock paid in,

and by whom; the transfers of said stock; the amount of its assets and liabilities, and the names and place of residence of its officers. The directors of every railroad corporation shall, annually, make a report, under oath, to the auditor of public accounts, or some officer to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law. And the general assembly shall pass laws enforcing by suitable penalties the provisions of this section.

SEC. 10. The rolling-stock and all other movable property belonging to any railroad company or corporation in this State, shall be considered personal property, and shall be liable to execution and sale in the same manner as the personal property of individuals, and the general assembly shall pass no law exempting any such property from execution and sale.

SEC. 11. No railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given, of at least sixty days, to all stockholders, in such manner as may be provided by law. A majority of the directors of any railroad corporation, now incorporated, or hereafter to be incorporated, by the laws of this State, shall be citizens and residents of this State.

SEC. 12. Railways heretofore constructed, or that may hereafter be constructed in this State, are hereby declared public highways, and shall be free to all persons for the transportation of their persons and property thereon, under such regulations as may be prescribed by law. And the general assembly shall, from time to time, pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on the different railroads in this State.

SEC. 13. No railroad corporation shall issue any stock of bonds, except for money, labor, or property, actually received, and applied to the purposes for which such corporation was created; and all stock dividends, and other fictitious increase of the capital stock or indebtedness of any such corporation, shall be void. The capital stock of no railroad corporation shall be increased for any purpose, except upon giving sixty days' public notice, in such manner as may be provided by law.

SEC. 14. The exercise of the power and the right of eminent domain shall never be so construed or abridged as to prevent the taking, by the general assembly, of the property and franchises of incorporated companies already organized, and subjecting them to the public necessity the same as of individuals. The right of trial by jury shall be held inviolate in all trials of claims for compensation, when, in the exercise of the said right of eminent domain, any incorporated company shall be interested either for or against the exercise of said right.

SEC. 15. The general assembly shall pass laws to correct abuses, and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce such laws, by adequate penalties, to the extent, if necessary for that purpose, of forfeiture of their property and franchises.

ARTICLE XII.

MILITIA.

SECTION 1. The militia of the State of Illinois shall consist of all able-bodied male persons, resident in the State, between the ages of eighteen and forty-five, except such persons as now are, or hereafter may be, exempted by the laws of the United States, or of this State.

SEC. 2. The general assembly, in providing for the organization, equipment, and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

SEC. 3. All militia officers shall be commissioned by the governor, and may hold their commissions for such time as the general assembly may provide.

SEC. 4. The militia shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at muster and elections, and in going to and returning from the same.

SEC. 5. The military records, banners, and relics of the State shall be preserved as

an enduring memorial of the patriotism and valor of Illinois, and it shall be the duty of the general assembly to provide by law for the safe-keeping of the same.

SEC. 6. No person having conscientious scruples against bearing arms shall be compelled to do militia duty in time of peace: *Provided*, Such person shall pay an equivalent for such exemption.

ARTICLE XIII.

WAREHOUSES.

SECTION 1. All elevators or store-houses, where grain or other property is stored for a compensation, whether the property stored be kept separated or not, are declared to be public warehouses.

SEC. 2. The owner, lessee, or manager of each and every public warehouse, situated in any town or city of not less than one hundred thousand inhabitants, shall make weekly statements under oath, before some officer to be designated by law, and keep the same posted in some conspicuous place in the office of such warehouse, and shall also file a copy for public examination in such place as shall be designated by law, which statement shall correctly set forth the amount and grade of each and every kind of grain in such warehouse, together with such other property as may be stored therein, and what warehouse receipts have been issued, and are, at the time of making such statement, outstanding therefor; and shall, on the copy posted in the warehouse, note daily such changes as may be made in the quantity and grade of grain in such warehouse; and the different grades of grain shipped in separate lots shall not be mixed with inferior or superior grades without the consent of the owner or consignee thereof.

SEC. 3. The owners of property stored in any warehouse, or holder of a receipt for the same, shall always be at liberty to examine such property stored, and all the books and records of the warehouse in regard to such property.

SEC. 4. All railroad companies and other common carriers on railroads shall weigh and measure grain at points where it is shipped, and receipt for the full amount, and shall be responsible for the delivery of such amount to the owner or consignee thereof at the place of destination.

SEC. 5. All railroad companies receiving and transporting grain, in bulk or otherwise, shall deliver the same to any consignee thereof, or any elevator or public warehouse to which it may be consigned, provided such consignee, or the elevator, or public warehouse can be reached by any track owned, leased, or used, or which can be used by such railroad companies; and all railroad companies shall permit connections to be made with their track, so that any such consignee, and any public warehouse, coal-bank, or coal-yard may be reached by the cars on said railroad.

SEC. 6. It shall be the duty of the general assembly to pass all necessary laws to prevent the issue of false and fraudulent warehouse receipts, and to give full effect to this article of the constitution, which shall be liberally construed so as to protect producers and shippers. And the enumeration of the remedies herein named shall not be construed to deny to the general assembly the power to prescribe by law such other and further remedies as may be found expedient, or to deprive any persons of existing common-law remedies.

SEC. 7. The general assembly shall pass laws for the inspection of grain, for the protection of producers, shippers, and receivers of grain and produce.

ARTICLE XIV.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Whenever two-thirds of the members of each house of the general assembly shall, by a vote entered upon the journals thereof, concur that a convention is necessary to revise, alter, or amend the constitution, the question shall be submitted to the electors at the next general election. If a majority voting at the election vote for a convention, the general assembly shall at the next session provide for a convention, to consist of double the number of members of the senate, to be elected in the same manner, at the same places, and in the same districts. The general assembly shall, in the act calling the convention, designate the day, hour, and place of its meet-

ing, fix the pay of its members and officers, and provide for the payment of the same, together with the expenses necessarily incurred by the convention in the performance of its duties. Before proceeding the members shall take an oath to support the Constitution of the United States and of the State of Illinois, and to faithfully discharge their duties as members of the convention. The qualification of members shall be the same as that of members of the senate, and vacancies occurring shall be filled in the manner provided for filling vacancies in the general assembly. Said convention shall meet within three months after such election, and prepare such revision, alteration, or amendments of the constitution as shall be deemed necessary, which shall be submitted to the electors for their ratification or rejection, at an election appointed by the convention for that purpose, not less than two nor more than six months after the adjournment thereof; and unless so submitted and approved by a majority of the electors voting at the election, no such revision, alterations, or amendments shall take effect.

SEC. 2. Amendments to the constitution may be proposed in either house of the general assembly, and if the same shall be voted for by two-thirds of all the members elected to each of the two houses, such proposed amendments, together with the yeas and nays of each house thereon, shall be entered in full on their respective journals; and said amendments shall be submitted to the electors of this State for adoption or rejection at the next election of members of the general assembly, in such manner as may be prescribed by law. The proposed amendments shall be published in full at least three months preceding the election, and if a majority of the electors voting at said election shall vote for the proposed amendments, they shall become a part of this constitution. But the general assembly shall have no power to propose amendments to more than one article of this constitution at the same session, nor to the same article oftener than once in four years.

ADDITIONAL SECTIONS.

ILLINOIS CENTRAL RAILROAD.

No contract, obligation, or liability whatever, of the Illinois Central Railroad Company, to pay any money into the State treasury, nor any lien of the State upon, or right to tax property of said company, in accordance with the provisions of the charter of said company, approved February 10, A. D. 1851, shall ever be released, suspended, modified, altered, remitted, or in any manner diminished or impaired by legislative or other authority; and all moneys derived from said company, after the payment of the State debt, shall be appropriated and set apart for the payment of the ordinary expenses of the State government, and for no other purposes whatever.

MUNICIPAL SUBSCRIPTIONS TO RAILROADS OR PRIVATE CORPORATIONS.

No county, city, town, township, or other municipality, shall ever become subscriber to the capital stock of any railroad or private corporation, or make donation to or loan its credit in aid of such corporation: *Provided, however,* That the adoption of this article shall not be construed as affecting the right of any such municipality to make such subscriptions where the same have been authorized, under existing laws, by a vote of the people of such municipalities prior to such adoption.

CANAL.

The Illinois and Michigan Canal shall never be sold or leased until the specific proposition for the sale or lease thereof shall first have been submitted to a vote of the people of the State at a general election, and have been approved by a majority of all the votes polled at such election. The general assembly shall never loan the credit of the State, or make appropriations from the treasury thereof, in aid of railroads or canals: *Provided,* That any surplus earnings of any canal may be appropriated for its enlargement or extension.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in the constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

SECTION 1. That all laws in force at the adoption of this constitution not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts of this State, individuals, or bodies-corporate, shall continue to be as valid as if this constitution had not been adopted.

SEC. 2. That all fines, taxes, penalties, and forfeitures due and owing to the State of Illinois under the present constitution and laws shall inure to the use of the people of the State of Illinois under this constitution.

SEC. 3. Recognizances, bonds, obligations, and all other instruments entered into or executed before the adoption of this constitution, to the people of the State of Illinois, to any State or county officer or public body, shall remain binding and valid, and rights and liabilities upon the same shall continue; and all crimes and misdemeanors shall be tried and punished as though no change had been made in the constitution of this State.

SEC. 4. County courts for the transaction of county business in counties not having adopted township organization, shall continue in existence, and exercise their present jurisdiction until the board of county commissioners provided in this constitution is organized in pursuance of an act of the general assembly; and the county courts in all other counties shall have the same power and jurisdiction they now possess until otherwise provided by general law.

SEC. 5. All existing courts which are not in this constitution specifically enumerated shall continue in existence and exercise their present jurisdiction until otherwise provided by law.

SEC. 6. All persons now filling any office or appointment shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, unless by this constitution it is otherwise directed.

SEC. 7. On the day this constitution is submitted to the people for ratification an election shall be held for judges of the supreme court in the second, third, sixth, and seventh judicial election districts designated in this constitution, and for the election of three judges of the circuit court in the county of Cook, as provided for in the article of this constitution relating to the judiciary, at which election every person entitled to vote, according to the terms of this constitution, shall be allowed to vote; and the election shall be otherwise conducted, returns made, and certificates issued in accordance with existing laws, except that no registry shall be required at said election: *Provided*, That at said election in the county of Cook no elector shall vote for more than two candidates for circuit judge. If, upon canvassing the votes for and against the adoption of this constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificates of election shall be issued for any of said supreme or circuit judges.

SEC. 8. This constitution shall be submitted to the people of the State of Illinois for adoption or rejection at an election to be held on the first Saturday in July, A. D. 1870; and there shall be separately submitted at the same time, for adoption or rejection, sections nine, ten, eleven, twelve, thirteen, fourteen, and fifteen, relating to railroads, in the article entitled corporations; the article entitled counties; the article entitled warehouses; the question of requiring three-fifths vote to remove a county-seat; the section relating to the Illinois Central Railroad; the section in relation to minority representation; the section relating to municipal subscriptions to railroads or private corporations; and the section relating to the canal.

Every person entitled to vote under the provisions of this constitution, as defined in the article in relation to "suffrage," shall be entitled to vote for the adoption or rejection of this constitution, and for or against the articles, sections, and questions aforesaid, separately submitted; and the said qualified electors shall vote at the usual places of voting, unless otherwise provided; and the said election shall be conducted and returns thereof made according to the laws now in force regulating general elections, except

that no registry shall be required at said election: *Provided, however,* That the polls shall be kept open for the reception of ballots until sunset of said day of election.

SEC. 9. The secretary of state shall, at least twenty days before said election, cause to be delivered to the county clerk of each county blank poll-books, tally-lists, and forms of return, and twice the number of properly-prepared printed ballots for the said election that there are voters in such county, the expense whereof shall be audited and paid as other public printing ordered by the secretary of state is by law required to be audited and paid; and the several county clerks shall, at least five days before said election, cause to be distributed to the board of election in each election district in their respective counties said blank poll-books, tally-lists, forms of return, and tickets.

SEC. 10. At the said election the ballots shall be in the following form:

NEW CONSTITUTION TICKET.

For all the propositions on this ticket which are not cancelled with ink or pencil; and against all propositions which are so cancelled. For the new constitution. For the sections relating to railroads in the article entitled corporations. For the article entitled counties. For the article entitled warehouses. For a three-fifths vote to remove county-seats. For the section relating to the Illinois Central Railroad. For the section relating to minority representation. For the section relating to municipal subscriptions to railroads or private corporations. For the section relating to the canal.

Each of said tickets shall be counted as a vote cast for each proposition thereon not cancelled with ink or pencil, and against each proposition so cancelled, and returns thereof shall be made accordingly by the judges of election.

SEC. 11. The returns of the whole vote cast, and of the votes for the adoption or rejection of this constitution, and for or against the articles and sections respectively submitted, shall be made by the several county clerks, as is now provided by law, to the secretary of state, within twenty days after the election; and the returns of the said votes shall, within five days thereafter, be examined and canvassed by the auditor, treasurer, and secretary of state, or any two of them, in the presence of the governor, and proclamation shall be made by the governor, forthwith, of the result of the canvass.

SEC. 12. If it shall appear that a majority of the votes polled are "for the new constitution," then so much of this constitution as was not separately submitted to be voted on by articles and sections shall be the supreme law of the State of Illinois, on and after Monday, the 8th day of August, A. D. 1870; but if it shall appear that a majority of the votes polled were "against the new constitution," then so much thereof as was not separately submitted to be voted on by articles and sections shall be null and void. If it shall appear that a majority of the votes polled are "for the sections relating to railroads in the article entitled 'corporations,'" sections nine, ten, eleven, twelve, thirteen, fourteen, and fifteen, relating to railroads in the said article, shall be a part of the constitution of this State; but if a majority of said votes are against such sections, they shall be null and void. If a majority of the votes polled are "for the article entitled 'counties,'" such article shall be a part of the constitution of this State, and shall be substituted for article seven in the present constitution, entitled "counties;" but if a majority of said votes are against such article, the same shall be null and void. If a majority of the votes polled are for the article entitled "warehouses," such article shall be a part of the constitution of this State, but if a majority of the votes are against said article, the same shall be null and void. If a majority of the votes polled are for either of the sections separately submitted, relating respectively to the "Illinois Central Railroad," "minority representation," "municipal subscriptions to railroads or private corporations," and the "canal," then such of said sections as shall receive such majority shall be a part of the constitution of this State; but each of said sections so separately submitted against which, respectively, there shall be a majority of the votes polled, shall be null and void: *Provided,* That the section relating to "minority representation"

shall not be declared adopted unless the portion of the constitution not separately submitted to be voted on by articles and sections shall be adopted, and in case said section relating to "minority representation" shall become a portion of the constitution, it shall be substituted for sections seven and eight of the legislative article. If a majority of the votes cast at such election shall be for a three-fifths vote to remove a county-seat, then the words "a majority" shall be stricken out of section four of the article on counties, and the words "three-fifths" shall be inserted in lieu thereof; and the following words shall be added to said section, to wit: "But when an attempt is made to remove a county-seat to a point nearer to the centre of a county, then a majority vote only shall be necessary." If the foregoing proposition shall not receive a majority of the votes as aforesaid, then the same shall have no effect whatever.

SEC. 13. Immediately after the adoption of this constitution, the governor and secretary of state shall proceed to ascertain and fix the apportionment of the State for members of the first house of representatives under this constitution. The apportionment shall be based upon the Federal census of the year A. D. 1870 of the State of Illinois, and shall be made strictly in accordance with the rules and principles announced in the article on the legislative department of this constitution: *Provided*, That in case the Federal census aforesaid cannot be ascertained prior to Friday, the 23d day of September, A. D. 1870, then the said apportionment shall be based upon the State census of the year A. D. 1865, in accordance with the rules and principles aforesaid. The governor shall, on or before Wednesday, the 28th day of September, A. D. 1870, make official announcement of the said apportionment, under the great seal of the State; and one hundred copies thereof, duly certified, shall be forthwith transmitted by the secretary of state to each county clerk for distribution.

SEC. 14. The districts shall be regularly numbered by the secretary of state, commencing with Alexander County as number one, and proceeding thence northwardly through the State, and terminating with the county of Cook; but no county shall be numbered as more than one district, except the county of Cook, which shall constitute three districts, each embracing the territory contained in the now existing representative districts of said county. And on the Tuesday after the first Monday in November, A. D. 1870, the members of the first house of representatives under this constitution shall be elected according to the apportionment fixed and announced as aforesaid, and shall hold their offices for two years, and until their successors shall be elected and qualified.

SEC. 15. The senate, at its first session under this constitution, shall consist of fifty members, to be chosen as follows: At the general election held on the first Tuesday after the first Monday of November, A. D. 1870, two senators shall be elected in districts where term of senators expire on the first Monday of January, A. D. 1871, or where there shall be a vacancy, and in the remaining districts one senator shall be elected. Senators so elected shall hold their office two years.

SEC. 16. The general assembly, at its first session held after the adoption of this constitution, shall proceed to apportion the State for members of the senate and house of representatives, in accordance with the provisions of the article on the legislative department.

SEC. 17. When this constitution shall be ratified by the people, the governor shall forthwith, after having ascertained the fact, issue writs of election to the sheriffs of the several counties of this State, or in case of vacancies, to the coroners, for the election of all the officers, the time of whose election is fixed by this constitution or schedule, and it shall be the duty of said sheriffs or coroners to give such notice of the time and place of said election as is now prescribed by law.

SEC. 18. All laws of the State of Illinois, and all official writings, and the executive, legislative, and judicial proceedings, shall be conducted, preserved, and published in no other than the English language.

SEC. 19. The general assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

SEC. 20. The circuit clerks of the different counties having a population over sixty thousand shall continue to be recorders (*ex officio*) for their respective counties, under this constitution, until the expiration of their respective terms.

SEC. 21. The judges of all courts of record in Cook County shall, in lieu of any salary provided for in this constitution, receive the compensation now provided by law until the adjournment of the first session of the general assembly after the adoption of this constitution.

SEC. 22. The present judge of the circuit court of Cook County shall continue to hold the circuit court of Lake County until otherwise provided by law.

SEC. 23. When this constitution shall be adopted, and take effect as the supreme law of the State of Illinois, the two-mill tax provided to be annually assessed and collected upon each dollar's worth of taxable property, in addition to all other taxes, as set forth in article fifteen of the now existing constitution, shall cease to be assessed after the year A. D. 1870.

SEC. 24. Nothing contained in this constitution shall be so construed as to deprive the general assembly of the power to authorize the city of Quincy to create any indebtedness for railroad or municipal purposes for which the people of said city shall have voted, and to which they shall have given, by such vote, their assent, prior to the 13th day of December, A. D. 1869: *Provided*, That no such indebtedness, so created, shall, in any part thereof, be paid by the State, or from any State revenue tax or fund, but the same shall be paid, if at all, by the said city of Quincy alone, and by taxes to be levied upon the taxable property thereof: *And provided further*, That the general assembly shall have no power in the premises that it could not exercise under the present constitution of this State.

SEC. 25. In case this constitution, and the articles and sections submitted separately, be adopted, the existing constitution shall cease in all its provisions, and in case this constitution be adopted, and any one or more of the articles or sections submitted separately be defeated, the provisions of the existing constitution, if any, on the same subject shall remain in force.

SEC. 26. The provisions of this constitution required to be executed, prior to the adoption or rejection thereof, shall take effect and be in force immediately.

Done in convention at the capitol, in the city of Springfield, on the 13th day of May, in the year of our Lord one thousand eight hundred and seventy, and of the Independence of the United States of America the ninety-fourth.

CHARLES HITCHCOCK, *President*.

JOHN Q. HARMON, *Secretary*.

INDIANA.

VIRGINIA ACT OF CESSION—1783.

[See "Illinois," pages 427-428.]

DEED OF CESSION FROM VIRGINIA—1784.

[See "Illinois," page 428.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1787

[See "Illinois," pages 429-432.]

VIRGINIA ACT OF RATIFICATION—1788.

[See "Illinois," page 433.]

THE NORTHWEST TERRITORIAL GOVERNMENT—1789.

[See "Illinois," page 433.]

THE TERRITORIAL GOVERNMENT OF INDIANA—1800.

[See "Illinois," pages 434-435.]

THE TERRITORIAL GOVERNMENT OF INDIANA—1809.

[See "Illinois," pages 435-436.]

THE TERRITORIAL GOVERNMENT OF INDIANA.

[THIRTEENTH CONGRESS, SECOND SESSION.]

An Act to establish the mode of laying off the Territory of Indiana into districts, for the election of its members of the legislative council.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the house of representatives of the Indiana Territory be, and it is hereby, empowered, from time to time, to lay off the said Territory into five districts for the election of the members of the legislative council of the Territory aforesaid.

SEC. 2. *And be it further enacted,* That the districts established by Governor Harrison, in the year of our Lord one thousand eight hundred and nine, shall remain as the lawfully-authorized districts for the election of the members of the legislative council of said Territory, until the house of representatives thereof shall have exercised the power vested in that body by the first section of this act.

APPROVED, March 4, 1814.

ENABLING ACT FOR INDIANA—1816.

[FOURTEENTH CONGRESS, FIRST SESSION.]

An Act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of the Territory of Indiana be, and they are hereby, authorized to form for themselves a constitution and State government, and to assume such name as they shall deem proper; and the said State, when formed, shall be admitted into the Union upon the same footing with the original States, in all respects whatever.

SEC. 2. *And be it further enacted,* That the said State shall consist of all the territory included within the following boundaries, to wit: Bounded on the east by the meridian-line which forms the western boundary of the State of Ohio; on the south, by the river Ohio, from the mouth of the Great Miami River to the mouth of the river Wabash; on the west, by a line drawn along the middle of the Wabash, from its mouth to a point where a due-north line drawn from the town of Vincennes would last touch the northwestern shore of the said river; and from thence by a due-north line until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north, by the said east and west line, until the same shall intersect the first-mentioned meridian-line which forms the western boundary of the State of Ohio: *Provided,* That the convention hereinafter provided for, when formed, shall ratify the boundaries aforesaid; otherwise they shall be and remain as now prescribed by the ordinance for the government of the territory northwest of the river Ohio: *Provided also,* That the said State shall have concurrent jurisdiction on the river Wabash with the State to be formed west thereof, so far as the said river shall form a common boundary to both.

SEC. 3. *And be it further enacted,* That all male citizens of the United States, who shall have arrived at the age of twenty-one years, and resided within the said Territory at least one year previous to the day of election, and shall have paid a county or ter-

ritorial tax; and all persons having in other respects the legal qualifications to vote for representatives in the general assembly of the said Territory, be, and they are hereby, authorized to choose representatives to form a convention, who shall be apportioned amongst the several counties within the said Territory, according to the apportionment made by the legislature thereof, at their last session, to wit: From the county of Wayne, four representatives; from the county of Franklin, five representatives; from the county of Dearborn, three representatives; from the county of Switzerland, one representative; from the county of Jefferson, three representatives; from the county of Clark, five representatives; from the county of Harrison, five representatives; from the county of Washington, five representatives; from the county of Knox, five representatives; from the county of Gibson, four representatives; from the county of Posey, one representative; from the county of Warrick, one representative; and from the county of Perry, one representative. And the election for the representatives aforesaid shall be holden on the second Monday of May, one thousand eight hundred and sixteen, throughout the several counties in the said Territory; and shall be conducted in the same manner, and under the same penalties, as prescribed by the laws of said Territory, regulating elections therein for members of the house of representatives.

SEC. 4. *And be it further enacted*, That the members of the convention thus duly elected be, and they are hereby, authorized to meet at the seat of the government of the said Territory, on the second Monday of June next, which convention, when met, shall first determine, by a majority of the whole number elected, whether it be or be not expedient, at that time, to form a constitution and State government for the people within the said Territory, and if it be determined to be expedient, the convention shall be, and hereby are, authorized to form a constitution and State government; or if it be deemed more expedient, the said convention shall provide by ordinance for electing representatives to form a constitution, or frame of government; which said representatives shall be chosen in such manner, and in such proportion, and shall meet at such time and place, as shall be prescribed by the said ordinance, and shall then form, for the people of said Territory, a constitution and State government: *Provided*, That the same, whenever formed, shall be republican, and not repugnant to those articles of the ordinance of the thirteenth of July, one thousand seven hundred and eighty-seven, which are declared to be irrevocable between the original States, and the people and States of the territory northwest of the river Ohio; excepting so much of said articles as relate to the boundaries of the States therein to be formed.

SEC. 5. *And be it further enacted*, That until the next general census shall be taken, the said State shall be entitled to one representative in the House of Representatives of the United States.

SEC. 6. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the convention of the said Territory of Indiana, when formed, for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory upon the United States:

First. That the section numbered sixteen, in every township, and when such section has been sold, granted, or disposed of, other lands, equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township for the use of schools.

Second. That all salt-springs within the said Territory, and the land reserved for the use of the same, together with such other lands as may, by the President of the United States, be deemed necessary and proper for working the said salt-springs, not exceeding, in the whole, the quantity contained in thirty-six entire sections, shall be granted to the said State, for the use of the people of the said State, the same to be used under such terms, conditions, and regulations as the legislature of the said State shall direct: *Provided*, The said legislature shall never sell nor lease the same for a longer period than ten years at any one time.

Third. That five per cent. of the net proceeds of the lands lying within the said Territory, and which shall be sold by Congress from and after the first day of December next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals, of which three-fifths shall be applied to those objects within

the said State, under the direction of the legislature thereof, and two fifths to the making of a road or roads leading to the said State under the direction of Congress.

Fourth. That one entire township, which shall be designated by the President of the United States, in addition to the one heretofore reserved for that purpose, shall be reserved for the use of a seminary of learning, and vested in the legislature of the said State, to be appropriated solely to the use of such seminary by the said legislature.

Fifth. That four sections of land be, and the same are hereby, granted to the said State, for the purpose of fixing their seat of government thereon, which four sections shall, under the direction of the legislature of said State, be located at any time, in such township and range as the legislature aforesaid may select, on such lands as may hereafter be acquired by the United States from the Indian tribes within the said Territory: *Provided,* That such locations shall be made prior to the public sale of the lands of the United States surrounding such location: *And provided always,* That the five foregoing propositions, herein offered, are on the conditions that the convention of the said State shall provide by an ordinance, irrevocable without the consent of the United States, that every and each tract of land sold by the United States, from and after the first day of December next, shall be and remain exempt from any tax, laid by order or under any authority of the State, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale.

APPROVED, April 19, 1816.

ORDINANCE ACCEPTING THE ENABLING ACT—1816.*

Be it ordained by the representatives of the people of the Territory of Indiana, in convention met at Corydon, on Monday, the tenth day of June, in the year of our Lord eighteen hundred and sixteen, That we do, for ourselves and our posterity, agree, determine, declare, and ordain, that we will, and do hereby, accept the propositions of the Congress of the United States, as made and contained in their act of the nineteenth day of April, eighteen hundred and sixteen, entitled "An act to enable the people of the Indiana Territory to form a State government and constitution, and for the admission of such State into the Union, on an equal footing with the original States."

And we do further, for ourselves and our posterity, hereby ratify, confirm, and establish the boundaries of the said State of Indiana, as fixed, prescribed, laid down, and established in the act of Congress aforesaid; and we do also, further, for ourselves and our posterity, hereby agree, determine, declare, and ordain that each and every tract of land sold by the United States, lying within the said State, and which shall be sold from and after the first day of December next, shall be and remain exempt from any tax laid by order or under any authority of the said State of Indiana, or by or under the authority of the general assembly thereof, whether for State, county, or township, or any other purpose whatever, for the term of five years from and after the day of sale of any such tract of land; and we do, moreover, for ourselves and our posterity, hereby declare and ordain, that this ordinance, and every part thereof, shall forever be and remain irrevocable and inviolate, without the consent of the United States, in Congress assembled, first had and obtained for the alteration thereof, or any part thereof.

CONSTITUTION OF INDIANA—1816.

PREAMBLE.

We, the representatives of the people of the Territory of Indiana, in convention met, at Corydon, on Monday, the tenth day of June, in the year of our Lord eight-

* Adopted at Corydon, June 29, 1816, by the convention which framed the first constitution of Indiana.

een hundred and sixteen, and of the Independence of the United States the fortieth, having the right of admission into the General Government as a member of the Union, consistent with the Constitution of the United States, the ordinance of Congress of one thousand seven hundred and eighty-seven, and the law of Congress entitled "An act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," in order to establish justice, promote the welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish the following constitution or form of government, and do mutually agree with each other to form ourselves into a free and independent State by the name of "The State of Indiana."

ARTICLE I.

SECTION 1. That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare: that all men are born equally free and independent, and have certain natural, inherent, and unalienable rights; among which are, the enjoying and defending life and liberty, and of acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; for the advancement of these ends they have at all times an unalienable and indefeasible right to alter or reform their government in such manner as they may deem proper.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry, against his consent; that no human authority can, in any case whatever, control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious societies or modes of worship; and no religious test shall be required as a qualification to any office of trust or profit.

SEC. 4. That elections shall be free and equal.

SEC. 5. That in all civil cases, where the value in controversy shall exceed the sum of twenty dollars, and in all criminal cases except in petit misdemeanors, which shall be punishable by fine only, not exceeding three dollars, in such manner as the legislature may prescribe by law, the right of trial by jury shall remain inviolate.

SEC. 6. That no power of suspending the operation of the laws shall be exercised, except by the legislature or its authority.

SEC. 7. That no man's particular services shall be demanded, or property taken or applied to public use, without the consent of his representatives, or without a just compensation being made therefor.

SEC. 8. The rights of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

SEC. 9. That the printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of government; and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man; and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 10. In prosecutions for the publication of papers investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for the public information, the truth thereof may be given in evidence; and, in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 11. That all courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered without denial or delay.

SEC. 12. That no person arrested or confined in jail shall be treated with unnecessary rigor, or be put to answer any criminal charge, but by presentment, indictment, or impeachment.

SEC. 13. That, in all criminal prosecutions, the accused hath a right to be heard by himself and counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and, in prosecutions by indictment or presentment, a speedy public trial by an impartial jury of the county or district in which the offence shall have been committed, and shall not be compelled to give evidence against himself, nor shall be twice put in jeopardy for the same offence.

SEC. 14. That all persons shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless, in case of rebellion or invasion, the public safety may require it.

SEC. 15. Excessive bail shall not be required; excessive fines shall not be imposed; nor cruel and unusual punishments inflicted.

SEC. 16. All penalties shall be proportioned to the nature of the offence.

SEC. 17. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

SEC. 18. No *ex post facto* law, nor any law impairing the validity of contracts, shall ever be made; and no conviction shall work corruption of blood, nor forfeiture of estate.

SEC. 19. That the people have a right to assemble together, in a peaceable manner, to consult for their common good, to instruct their representatives, and to apply to the legislature for a redress of grievances.

SEC. 20. That the people have a right to bear arms for the defence of themselves and the State; and that the military shall be kept in strict subordination to the civil power.

SEC. 21. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

SEC. 22. That the legislature shall not grant any title of nobility or hereditary distinctions, nor create any office, the appointment to which shall be for a longer term than good behavior.

SEC. 23. That emigration from the State shall not be prohibited.

SEC. 24. To guard against any encroachments on the rights herein retained, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolable.

ARTICLE II.

The powers of the government of Indiana shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judiciary, to another. And no person, or collection of persons, being of one of those departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

ARTICLE III.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives, both to be elected by the people.

SEC. 2. The general assembly may, within two years after their first meeting, and shall, in the year eighteen hundred and twenty, and every subsequent term of five years, cause an enumeration to be made of all the white male inhabitants above the age of twenty-one years. The number of representatives shall, at the several periods of making such enumerations, be fixed by the general assembly, and apportioned among the several counties according to the number of white male inhabitants, above twenty-

one years of age, in each; and shall never be less than twenty-five, nor greater than thirty-six, until the number of white male inhabitants above twenty-one years of age shall be twenty-two thousand; and, after that event, at such ratio that the whole number of representatives shall never be less than thirty-six, nor exceed one hundred.

SEC. 3. The representatives shall be chosen annually, by the qualified electors of each county respectively, on the first Monday of August.

SEC. 4. No person shall be a representative unless he shall have attained the age of twenty-one years, and shall be a citizen of the United States, and an inhabitant of this State; shall also have resided within the limits of the county in which he shall be chosen one year next preceding his election, if the county shall have been so long erected; but if not, then within the limits of the county or counties out of which it shall have been taken, unless he shall have been absent on the public business of the United States, or of this State, and shall have paid a State or county tax.

SEC. 5. The senators shall be chosen for three years, on the first Monday in August, by the qualified voters for representatives; and, on their being convened in consequence of the first election, they shall be divided by lot from their respective counties or districts, as near as can be into three classes; the seats of the senators of the first class shall be vacated at the expiration of the first year; and the second class at the expiration of the second year; and of the third class at the expiration of the third year; so that one-third thereof, as near as possible, may be annually chosen forever thereafter.

SEC. 6. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the general assembly, and apportioned among the several counties or districts to be established by law, according to the number of white male inhabitants, of the age of twenty-one years, in each, and shall never be less than one-third, nor more than one-half, of the number of representatives.

SEC. 7. No person shall be a senator unless he shall have attained the age of twenty-five years, and shall be a citizen of the United States; and shall, next preceding the election, have resided two years in this State, the last twelve months of which in the county or district in which he may be elected, if the county or district shall have been so long erected; but if not, then within the limits of the county or counties, district or districts, out of which the same shall have been taken; unless he shall have been absent on the public business of the United States, or of this State, and shall moreover have paid a State or county tax.

SEC. 8. The house of representatives, when assembled, shall choose a speaker and its other officers, and the senate shall choose its officers, except the president; and each shall be judges of the qualifications and elections of its members, and sit upon its own adjournments. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may adjourn, from day to day, and compel the attendance of absent members.

SEC. 9. Each house shall keep a journal of its proceedings, and publish them. The yeas and nays of the members, on any question, shall, at the request of any two of them, be entered on the journals.

SEC. 10. Any one member of either house shall have liberty to dissent from and protest against any act or resolution which he may think injurious to the public, or any individual or individuals, and have the reason of his dissent entered on the journals.

SEC. 11. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the legislature of a free and independent State.

SEC. 12. When vacancies happen in either branch of the general assembly, the governor, or the person exercising the power of governor, shall issue writs of election to fill such vacancies.

SEC. 13. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 14. Each house may punish, by imprisonment, during their session, any person not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in their presence: *Provided*, Such imprisonment shall not, at any one time, exceed twenty-four hours.

SEC. 15. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as, in the opinion of the house, may require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

SEC. 16. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 17. Every bill shall be read on three different days in each house, unless, in case of urgency, two-thirds of the house where such bill may be depending shall deem it expedient to dispense with this rule; and every bill, having passed both houses, shall be signed by the president and speaker of their respective houses.

SEC. 18. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Indiana.*"

SEC. 19. All bills for raising revenue shall originate in the house of representatives, but the Senate may amend or reject as in other bills.

SEC. 20. No person holding any office under the authority of the President of the United States, or of this State, militia officers excepted, shall be eligible to a seat in either branch of the general assembly, unless he resign his office previous to his election; nor shall any member of either branch of the general assembly, during the time for which he is elected, be eligible to any office, the appointment of which is vested in the general assembly: *Provided*, That nothing in this constitution shall be so construed as to prevent any member of the first session of the first general assembly from accepting any office that is created by this constitution, or the Constitution of the United States, and the salaries of which are established.

SEC. 21. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 22. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, at every annual session of the general assembly.

SEC. 23. The house of representatives shall have the sole power of impeaching, but a majority of all the members elected must concur in such impeachment. All impeachments shall be tried by the Senate, and, when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of a majority of all the senators elected.

SEC. 24. The governor, and all civil officers of the State, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, profit, or trust, under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 25. The first session of the general assembly shall commence on the first Monday of November next; and forever after the general assembly shall meet on the first Monday in December in every year, and at no other period unless directed by law, or provided for by this constitution.

SEC. 26. No person who hereafter may be a collector or holder of public money shall have a seat in either house of the general assembly, until such person shall have accounted for and paid into the treasury all sums for which he may be accountable.

ARTICLE IV.

SECTION 1. The supreme executive power of this State shall be vested in a governor, who shall be styled the governor of the State of Indiana.

SEC. 2. The governor shall be chosen by the qualified electors on the first Monday in August, at the places where they shall respectively vote for representatives thereof.

The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall open and publish them in presence of both houses of the general assembly; the person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by the joint vote of the members of both houses. Contested elections shall be determined by a committee to be selected from both houses of the general assembly, and formed and regulated in such manner as shall be directed by law.

SEC. 3. The governor shall hold his office during three years from and after the third day of the first session of the general assembly next ensuing this election, and until a successor shall be chosen and qualified; and shall not be capable of holding it longer than six years in any term of nine years.

SEC. 4. He shall be at least thirty years of age, and shall have been a citizen of the United States for ten years, and have resided in the State five years next preceeding his election; unless he shall have been absent on the business of this State or of the United States: *Provided*, That this shall not disqualify any person from the office of governor who shall be a citizen of the United States, and shall have resided in the Indiana Territory two years next preceeding the adoption of this constitution.

SEC. 5. No member of Congress, or person holding any office under the United States, or this State, shall exercise the office of governor or lieutenant-governor.

SEC. 6. The governor shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 7. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless he shall be advised so to do by a resolution of the general assembly.

SEC. 8. He shall nominate, and by and with the advice and consent of the senate appoint and commission, all officers, the appointment of which is not otherwise directed by this constitution; and all offices which may be created by the general assembly shall be filled in such manner as may be directed by law.

SEC. 9. Vacancies that may happen in offices, the appointment of which is vested in the governor and senate, or in the general assembly, shall be filled by the governor, during the recess of the general assembly, by granting commissions that shall expire at the end of the next session.

SEC. 10. He shall have power to remit fines and forfeitures, grant reprieves and pardons, except in cases of impeachment.

SEC. 11. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 12. He shall, from time to time, give to the general assembly information of the affairs of the State, and recommend to their consideration such measures as he shall deem expedient.

SEC. 13. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious disorders; and, in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he shall think proper, not beyond the time of the next annual session.

SEC. 14. He shall take care that the laws be faithfully executed.

SEC. 15. A lieutenant-governor shall be chosen at every election for a governor, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor, and whom as lieutenant-governor.

SEC. 16. He shall, by virtue of his office, be president of the senate; have a right, when in committee of the whole, to debate and vote on all subjects, and, when the senate are equally divided, to give the casting vote.

SEC. 17. In case of impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the lieutenant-governor shall

exercise all the powers and authority appertaining to the office of governor, until another be duly qualified, or the governor absent or impeached shall return or be acquitted.

SEC. 18. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of their own members as president for that occasion. And if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the president of the senate *pro tempore* shall, in like manner, administer the government until he shall be superseded by a governor or lieutenant-governor. The lieutenant-governor, while he acts as president of the senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government as governor shall receive the same compensation which the governor would have received and been entitled to had he been employed in the duties of his office, and no more.

SEC. 19. The president *pro tempore* of the senate, during the time he administers the government, shall receive, in like manner, the same compensation which the governor would have received had he been employed in the duties of his office, and no more.

SEC. 20. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State, during the recess of the general assembly, it shall be the duty of the secretary of state, for the time being, to convene the senate, for the purpose of choosing a president *pro tempore*.

SEC. 21. A secretary of state shall be chosen by the joint ballot of both houses of the general assembly, and be commissioned by the governor, for four years, or until a new secretary be chosen and qualified. He shall keep a fair register, and attest all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either house of the general assembly; and shall perform such other duties as may be enjoined him by law.

SEC. 22. Every bill which shall have passed both houses of the general assembly shall be presented to the governor; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to reconsider it; if, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by a majority of all the members elected to that house, it shall be a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within five days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it; unless the general assembly, by its adjournment, prevents its return, in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 23. Every resolution, to which the concurrence of both houses may be necessary, shall be presented to the governor, and before it shall take effect be approved by him; or, being disapproved, shall be repassed by a majority of all the members elected to both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 24. There shall be elected, by joint ballot of both houses of the general assembly, a treasurer and auditor, whose powers and duties shall be prescribed by law, and who shall hold their offices three years, and until their successors be appointed and qualified.

SEC. 25. There shall be elected in each county, by the qualified electors thereof, one sheriff and one coroner, at the times and places of holding elections for members of the general assembly. They shall continue in office two years, and until successors shall be chosen and duly qualified: *Provided*, That no person shall be eligible to the office of sheriff more than four years in any term of six years.

SEC. 26. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "The Seal of the State of Indiana."

ARTICLE V.

SECTION 1. The judiciary power of this State, both as to matters of law and equity, shall be vested in one supreme court, in circuit courts, and in such other inferior courts as the general assembly may from time to time direct and establish.

SEC. 2. The supreme court shall consist of three judges, any two of whom shall form a quorum, and shall have appellate jurisdiction only, which shall be coextensive with the limits of the State, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be prescribed by law: *Provided*, Nothing in this article shall be so construed as to prevent the general assembly from giving the supreme court original jurisdiction in capital cases and cases in chancery, where the president of the circuit court may be interested or prejudiced.

SEC. 3. The circuit courts shall each consist of a president and two associate judges. The State shall be divided by law into three circuits, for each of which a president shall be appointed, who, during his continuance in office, shall reside therein. The president and associate judges, in their respective counties, shall have common-law and chancery jurisdiction, as also complete criminal jurisdiction, in all such cases, and in such manner as may be prescribed by law. The president alone, in the absence of the associate judges, or the president and one of the associate judges, in the absence of the other, shall be competent to hold a court; as also the two associate judges, in the absence of the president, shall be competent to hold a court, except in capital cases and cases in chancery: *Provided*, That nothing herein contained shall prevent the general assembly from increasing the number of the circuits and presidents, as the exigencies of the State may from time to time require.

SEC. 4. The judges of the supreme court, the circuit and other inferior courts, shall hold their offices during the term of seven years, if they shall so long behave well, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 5. The judges of the supreme court shall, by virtue of their offices, be conservators of the peace throughout the State, as also the presidents of the circuit courts in their respective circuits, and the associate judges in their respective counties.

SEC. 6. The supreme court shall hold its sessions at the seat of government, at such times as shall be prescribed by law; and the circuit courts shall be held in the respective counties as may be directed by law.

SEC. 7. The judges of the supreme court shall be appointed by the governor, by and with the advice and consent of the senate. The presidents of the circuit courts shall be appointed by joint ballot of both branches of the general assembly; and the associate judges of the circuit courts shall be elected by the qualified electors in the respective counties.

SEC. 8. The supreme court shall appoint its own clerk; and the clerks of the circuit court in the several counties shall be elected by the qualified electors in the several counties; but no person shall be eligible to the office of clerk of the circuit court in any county unless he shall first have obtained from one or more of the judges of the supreme court, or from one or more of the presidents of the circuit courts, a certificate that he is qualified to execute the duties of the office of clerk of the circuit court: *Provided*, That nothing herein contained shall prevent the circuit courts in each county from appointing a clerk *pro tempore* until a qualified clerk may be duly elected: *And provided also*, That the said clerks respectively, when qualified and elected, shall hold their offices seven years, and no longer, unless reappointed.

SEC. 9. All clerks shall be removable by impeachment, as in other cases.

SEC. 10. When any vacancies happen in any of the courts, occasioned by the death, resignation, or removal from office of any judge of the supreme or circuit courts, or any of the clerks of the said courts, a successor shall be appointed in the same manner as hereinbefore prescribed, who shall hold his office for the period which his predecessor had to serve, and no longer, unless reappointed.

SEC. 11. The style of all process shall be "The State of Indiana." All prosecutions shall be carried on in the name and by the authority of the State of Indiana, and all indictments shall conclude, "against the peace and dignity of the same."

SEC. 12. A competent number of justices of the peace shall be elected by the qualified electors in each township in the several counties, and shall continue in office five years, if they shall so long behave well, whose powers and duties shall, from time to time, be regulated and defined by law.

ARTICLE VI.

SECTION 1. In all elections not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who has resided in the State one year immediately preceding such election, shall be entitled to vote in the county where he resides; except such as shall be enlisted in the Army of the United States or their allies.

SEC. 2. All elections shall be by ballot: *Provided*, That the general assembly may, (if they deem it more expedient,) at their session in eighteen hundred and twenty-one, change the mode, so as to vote *viva voce*; after which time it shall remain unalterable.

SEC. 3. Electors shall, in all cases except treason, felony, or breach of the peace, be free from arrest in going to, during their attendance at, and returning home from elections.

SEC. 4. The general assembly shall have full power to exclude from electing, or being elected, any person convicted of any infamous crime.

SEC. 5. Nothing in this article shall be so construed as to prevent citizens of the United States, who were actual residents at the time of adopting this constitution, and who, by the existing laws of this Territory, are entitled to vote, or persons who have been absent from home on a visit or necessary business, from the privileges of electors.

ARTICLE VII.

SECTION 1. The militia of the State of Indiana shall consist of all free, able-bodied male persons (negroes, mulattoes, and Indians excepted) resident in the said State, between the ages of eighteen and forty-five years; except such persons as now are, or hereafter may be, exempted by the laws of the United States, or of this State; and shall be armed, equipped, and trained as the general assembly may provide by law.

SEC. 2. No person or persons, conscientiously scrupulous of bearing arms, shall be compelled to do militia duty: *Provided*, Such person or persons shall pay an equivalent for such exemption; which equivalent shall be collected annually, by a civil officer, and be hereafter fixed by law; and shall be equal, as near as may be, to the lowest fines assessed on those privates in militia who may neglect or refuse to perform military duty.

SEC. 3. Captains and subalterns shall be elected by those persons in their respective company districts who are subject to perform militia duty; and the captain of each company shall appoint the non-commissioned officers to said company.

SEC. 4. Majors shall be elected by those persons within the bounds of their respective battalion districts, subject to perform militia duty; and colonels shall be elected by those persons within the bounds of their respective regimental districts subject to perform militia duty.

SEC. 5. Brigadiers-general shall be elected by the commissioned officers within the bounds of their respective brigades, and majors-general shall be elected by the commissioned officers within the bounds of their respective divisions.

SEC. 6. Troops and squadrons of cavalry and companies of artillery, riflemen, grenadiers, or light infantry, may be formed in the said State, in such manner as shall be prescribed by law: *Provided, however*, That every troop or squadron of cavalry, company of artillery, riflemen, grenadiers, or light infantry, which may hereafter be formed within the said State, shall elect their own officers.

SEC. 7. The governor shall appoint the adjutant-general and quartermaster general, as also his aids-de-camp.

SEC. 8. Majors-general shall appoint their aids-de-camp, and all other division staff-officers; brigadiers-general shall appoint their brigade-majors, and all other brigade staff-officers; and colonels shall appoint their regimental staff-officers.

SEC. 9. All militia officers shall be commissioned by the governor, and shall hold their commissions during good behavior, or until they shall arrive at the age of sixty years.

SEC. 10. The general assembly shall, by law, fix the method of dividing the militia of the State into divisions, brigades, regiments, battalions, and companies, and shall also fix the rank of all staff-officers.

ARTICLE VIII.

Every twelfth year after this constitution shall have taken effect, at the general election held for governor, there shall be a poll opened, in which the qualified electors of the State shall express, by vote, whether they are in favor of calling a convention or not; and if there should be a majority of all the votes given at such election, in favor of a convention, the governor shall inform the next general assembly thereof, whose duty it shall be to provide by law for the election of the members to the convention, the number thereof, and the time and place of their meeting, which law shall not be passed unless agreed to by a majority of all the members elected to both branches of the general assembly; and which convention, when met, shall have it in their power to revise, amend, or change the constitution. But as the holding any part of the human creation in slavery, or involuntary servitude, can only originate in usurpation and tyranny, no alteration of this constitution shall ever take place so as to introduce slavery or involuntary servitude in this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted.

ARTICLE IX.

SECTION 1. Knowledge and learning generally diffused through a community being essential to the preservation of a free government, and spreading the opportunities and advantages of education through the various parts of the country being highly conducive to this end, it shall be the duty of the general assembly to provide by law for the improvement of such lands as are, or hereafter may be, granted by the United States to this State, for the use of schools, and to apply any funds which may be raised from such lands, or from any other quarter, to the accomplishment of the grand object for which they are or may be intended. But no lands granted for the use of schools or seminaries of learning shall be sold, by authority of this State, prior to the year eighteen hundred and twenty; and the moneys which may be raised out of the sale of any such lands, or otherwise obtained for the purposes aforesaid, shall be and remain a fund for the exclusive purpose of promoting the interest of literature and the sciences, and for the support of seminaries and the public schools. The general assembly shall, from time to time, pass such laws as shall be calculated to encourage intellectual, scientific, and agricultural improvement by allowing rewards and immunities for the promotion and improvement of arts, sciences, commerce, manufactures, and natural history; and to countenance and encourage the principles of humanity, industry, and morality.

SEC. 2. It shall be the duty of the general assembly, as soon as circumstances will permit, to provide by law for a general system of education, ascending in a regular graduation from township schools to a State university, wherein tuition shall be gratis, and equally open to all.

SEC. 3. And for the promotion of such salutary end, the money which shall be paid as an equivalent by persons exempt from militia duty, except in times of war, shall be exclusively, and in equal proportions, applied to the support of county seminaries; also, all fines assessed for any breach of the penal laws shall be applied to said seminaries, in the counties wherein they shall be assessed.

SEC. 4. It shall be the duty of the general assembly, as soon as circumstances will permit, to form a penal code, founded on the principles of reformation, and not of vindictive justice; and also to provide one or more farms to be an asylum for those persons who, by reason of age, infirmity, or other misfortunes, may have a claim upon the aid and beneficence of society, on such principles that such persons may therein find employment and every reasonable comfort, and lose by their usefulness the degrading sense of dependence.

SEC. 5. The general assembly, at the time they lay off a new county, shall cause at least 10 per cent. to be reserved out of the proceeds of the sale of town-lots in the seat of justice of such county for the use of a public library for such county; and at the same session they shall incorporate a library company, under such rules and regulations as will best secure its permanence and extend its benefits.

ARTICLE X.

SECTION 1. There shall not be established or incorporated in this State any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer: *Provided*, That nothing herein contained shall be so construed as to prevent the general assembly from establishing a State bank and branches, not exceeding one branch for any three counties, to be established at such place within such counties as the directors of the State bank may select: *Provided*, There be subscribed and paid in specie, on the part of individuals, a sum equal to thirty thousand dollars: *Provided also*, That the bank at Vincennes, and the Farmers' and Mechanics' Bank of Indiana, at Madison, shall be considered as incorporated banks according to the true tenor of the charters granted to said banks by the legislature of the Indiana Territory: *Provided*, That nothing herein contained shall be so construed as to prevent the general assembly from adopting either of the aforesaid banks as the State bank; and in case either of them shall be adopted as the State bank, the other may become a branch, under the rules and regulations hereinbefore prescribed.

ARTICLE XI.

SECTION 1. Every person who shall be chosen or appointed to any office of trust or profit under the authority of this State shall, before entering on the duties of said office, take an oath or affirmation, before any person lawfully authorized to administer oaths, to support the Constitution of the United States, and the constitution of this State, and also an oath of office.

SEC. 2. Treason against this State shall consist only in levying war against it, in adhering to its enemies, or giving them aid and comfort.

SEC. 3. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 4. The manner of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed the most solemn appeal to God.

SEC. 5. Every person shall be disqualified from serving as governor, lieutenant-governor, senator, or representative, for the term for which he shall have been elected, who shall have been convicted of having given or offered any bribe, treat, or reward to procure his election.

SEC. 6. All officers shall reside within the State; and all district, county, or town officers, within their respective districts, counties, or towns, (the trustees of the town of Clarksville excepted,) and shall keep their respective offices at such places therein as may be directed by law; and all militia officers shall reside within the bounds of the division, brigade, regiment, battalion, or company to which they may severally belong.

SEC. 7. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted. Nor shall any indenture of any negro or mulatto, hereafter made and executed out of the bounds of this State, be of any validity within the State.

SEC. 8. No act of the general assembly shall be in force until it shall have been published in print, unless in cases of emergency.

SEC. 9. All commissions shall be in the name and by the authority of the State of Indiana, and sealed with the State seal, and signed by the governor, and attested by the secretary of state.

SEC. 10. There shall be elected in each county a recorder, who shall hold his office during the term of seven years, if he shall so long behave well: *Provided*, That nothing herein contained shall prevent the clerks of the circuit courts from holding the office of recorder.

SEC. 11. Corydon, in Harrison County, shall be the seat of government of the State of Indiana until the year eighteen hundred and twenty-five, and until removed by law.

SEC. 12. The general assembly, when they lay off any new county, shall not reduce the old county or counties from which the same shall be taken to a less content than four hundred square miles.

SEC. 13. No person shall hold more than one lucrative office at the same time, except as in this constitution expressly permitted.

SEC. 14. No person shall be appointed as a county officer, within any county, who shall not have been a citizen and an inhabitant therein one year next preceding his appointment, if the county shall have been so long erected; but if the county shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

SEC. 15. All towns and township officers shall be appointed in such manner as shall be directed by law.

SEC. 16. The following officers of government shall not be allowed greater annual salaries, until the year eighteen hundred and nineteen, than as follows: The governor, one thousand dollars; the secretary of state, four hundred dollars; the auditor of public accounts, four hundred dollars; the treasurer, four hundred dollars; the judges of the supreme court, eight hundred dollars each; the presidents of the circuit courts, eight hundred dollars each; and the members of the general assembly, not exceeding two dollars per day each, during their attendance on the same, and two dollars for every twenty-five miles they shall severally travel, on the most usual route in going to and returning from the general assembly; after which time their pay shall be regulated by law. But no law passed to increase the pay of the members of the general assembly shall take effect until after the close of the session at which such law shall have been passed.

SEC. 17. In order that the boundaries of the State of Indiana may more clearly be known and established, it is hereby ordained and declared that the following shall be and forever remain the boundaries of the said State, to wit: Bounded on the east by the meridian-line which forms the western boundary of the State of Ohio; on the south by the Ohio River, from the mouth of the Great Miami River to the mouth of the river Wabash; on the west by a line drawn along the middle of the Wabash River from its mouth to a point where a due-north line, drawn from the town of Vincennes, would last touch the northwestern shore of the said Wabash River; and from thence, by a due-north line, until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north by the said east and west line, until the same shall intersect the first-mentioned meridian-line, which forms the western boundary of the State of Ohio.

ARTICLE XII.

SECTION 1. That no evils or inconvenience may arise from the change of a territorial government to a permanent State government, it is declared by this constitution that all rights, suits, actions, prosecutions, recognizances, contracts, and claims, both as it respects individuals and bodies-corporate, shall continue as if no change had taken place in this government.

SEC. 2. All fines, penalties, and forfeitures, due and owing to the Territory of Indiana, or any county therein, shall inure to the use of the State or county. All bonds

executed to the governor, or any other officer, in his official capacity in the Territory, shall pass over to the governor or other officers of the State or county, and their successors in office, for the use of the State or county, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. The governor, secretary, and judges, and all other officers, both civil and military, under the territorial government, shall continue in the exercise of the duties of their respective departments, until the said officers are superseded under the authority of this constitution.

SEC. 4. All laws and parts of laws now in force in this Territory, not inconsistent with this constitution, shall continue and remain in full force and effect until they expire or be repealed.

SEC. 5. The governor shall use his private seal until a State seal be procured.

SEC. 6. The governor, secretary of state, auditor of public accounts, and treasurer shall severally reside and keep the public records, books, and papers, in any manner relating to their respective offices, at the seat of government: *Provided, notwithstanding,* That nothing herein contained shall be so construed as to affect the residence of the governor for the space of six months, and until buildings suitable for his accommodation shall be procured at the expense of the State.

SEC. 7. All suits, pleas, complaints, and other proceedings, now depending in any court of record, or justices' courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari*, injunction, or other proceedings whatever, shall progress, and be carried on, in the respective court or courts, in the same manner as is now provided by law, and all proceedings had therein, in as full and complete a manner as if this constitution were not adopted; and appeals and writs of error may be taken from the circuit court and general court, now established in the Indiana Territory, to the supreme court, in such manner as shall be provided for by law.

SEC. 8. The president of this convention shall issue writs of election, directed to the several sheriffs of the several counties, requiring them to cause an election to be held for governor, lieutenant-governor, Representative to the Congress of the United States, members of the general assembly, sheriffs, and coroners, at the respective election districts in each county, on the first Monday in August next, which election shall be conducted in the manner prescribed by the existing election laws of the Indiana Territory; and the said governor, lieutenant-governor, members of the general assembly, sheriffs, and coroners, then duly elected, shall continue to exercise the duties of their respective offices for the time prescribed by this constitution, and until their successor or successors are qualified, and no longer.

SEC. 9. Until the first enumeration shall be made, as directed by this constitution, the county of Wayne shall be entitled to one senator and three representatives; the county of Franklin, one senator and three representatives; the county of Dearborn, one senator and two representatives; the county of Switzerland, one representative; and the county of Jefferson and Switzerland, one senator; and the county of Jefferson, two representatives; the county of Clark, one senator and three representatives; the county of Harrison, one senator and three representatives; the counties of Washington, Orange, and Jackson, one senator; and the county of Washington, two representatives; the counties of Orange and Jackson, one representative each; the county of Knox, one senator and three representatives; the county of Gibson, one senator and two representatives; the counties of Posey, Warrick, and Perry, one senator, and each of the aforesaid counties of Posey, Warrick, and Perry, one representative.

SEC. 10. All books, records, documents, warrants, and papers appertaining and belonging to the office of territorial treasurer of the Indiana Territory, and all moneys therein, and all papers and documents in the office of the secretary of said Territory, shall be disposed of as the general assembly of this State may direct.

SEC. 11. All suits, actions, pleas, complaints, prosecutions, and causes whatsoever, and all records, books, papers, and documents now in the general court, may be transferred to the supreme court established by this constitution; and all causes, suits, actions, pleas, complaints, and prosecutions whatsoever, now existing or pending in the circuit courts of this Territory, or which may be therein at the change of government,

and all records, books, papers, and documents relating to the said suits or filed in the said courts, may be transferred over to the circuit courts established by this constitution, under such rules and regulations as the general assembly may direct.

Done in convention, at Corydon, on the twenty-ninth day of June, in the year of our Lord eighteen hundred and sixteen, and of the Independence of the United States the fortieth.

In witness whereof we have hereunto subscribed our names.

JONATHAN JENNINGS, *President*.

WILLIAM HENDRICKS, *Secretary*.

RESOLUTION OF CONGRESS—1816.

Resolution for admitting the State of Indiana into the Union.

Whereas, in pursuance of an act of Congress passed on the nineteenth day of April, one thousand eight hundred and sixteen, entitled "An act to enable the people of the Indiana Territory to form a constitution and State government, and for the admission of that State into the Union," the people of the said Territory did, on the twenty-ninth day of June, in the present year, by a convention called for that purpose, form for themselves a constitution and State government, which constitution and State government, so formed, is republican, and in conformity with the principles of the articles of compact between the original States and the people and States in the territory northwest of the river Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Indiana shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States, in all respects whatever.

APPROVED, December 11, 1816.

CONSTITUTION OF INDIANA—1851.

PREAMBLE.

To the end that justice be established, public order maintained, and liberty perpetuated, we, the people of the State of Indiana, grateful to Almighty God for the free exercise of the right to choose our own form of government, do ordain this constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. We declare that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that all power is inherent in the people; and that all free governments are, and of right ought to be, founded on their authority, and instituted for their peace, safety, and well-being. For the advancement of these ends, the people have, at all times, an indefeasible right to alter and reform their government.

SEC. 2. All men shall be secured in their natural right to worship Almighty God according to the dictates of their own consciences.

SEC. 3. No law shall, in any case whatever, control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

SEC. 4. No preference shall be given by law to any creed, religious society, or mode of worship; and no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent.

SEC. 5. No religious test shall be required as a qualification for any office of trust or profit.

SEC. 6. No money shall be drawn from the treasury for the benefit of any religious or theological institution.

SEC. 7. No person shall be rendered incompetent as a witness in consequence of his opinions on matters of religion.

SEC. 8. The mode of administering an oath or affirmation shall be such as may be most consistent with and binding upon the conscience of the person to whom such oath or affirmation may be administered.

SEC. 9. No law shall be passed restraining the free interchange of thought and opinion, or restricting the right to speak, write, or print freely on any subject whatever; but for the abuse of that right every person shall be responsible.

SEC. 10. In all prosecutions for libel, the truth of the matters alleged to be libellous may be given in justification.

SEC. 11. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable search or seizure, shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

SEC. 12. All courts shall be open; and every man, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely and without purchase; completely, and without denial; speedily, and without delay.

SEC. 13. In all criminal prosecutions the accused shall have the right to a public trial by an impartial jury, in the county in which the offence shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

SEC. 14. No person shall be put in jeopardy twice for the same offence. No person in any criminal prosecution shall be compelled to testify against himself.

SEC. 15. No person arrested or confined in jail shall be treated with unnecessary rigor.

SEC. 16. Excessive bail shall not be required. Excessive fines shall not be imposed. Cruel and unusual punishments shall not be inflicted. All penalties shall be proportioned to the nature of the offence.

SEC. 17. Offences, other than murder or treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable, when the proof is evident or the presumption strong.

SEC. 18. The penal code shall be founded on the principles of reformation, and not of vindictive justice.

SEC. 19. In all criminal cases whatever the jury shall have the right to determine the law and the facts.

SEC. 20. In all civil cases, the right of trial by jury shall remain inviolate.

SEC. 21. No man's particular services shall be demanded without just compensation. No man's property shall be taken by law without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

SEC. 22. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted; and there shall be no imprisonment for debt, except in case of fraud.

SEC. 23. The general assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 24. No *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 25. No law shall be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this constitution.

SEC. 26. The operation of the laws shall never be suspended, except by the authority of the general assembly.

SEC. 27. The privilege of the writ of *habeas corpus* shall not be suspended, except in case of rebellion or invasion, and then only if the public safety demand it.

SEC. 28. Treason against the State shall consist only in levying war against it, and in giving aid and comfort to its enemies.

SEC. 29. No person shall be convicted of treason, except on the testimony of two witnesses to the same overt act, or upon his confession in open court.

SEC. 30. No conviction shall work corruption of blood or forfeiture of estate.

SEC. 31. No law shall restrain any of the inhabitants of the State from assembling together in a peaceable manner to consult for their common good, nor from instructing their representatives, nor from applying to the general assembly for redress of grievances.

SEC. 32. The people shall have a right to bear arms for the defence of themselves and the State.

SEC. 33. The military shall be kept in strict subordination to the civil power.

SEC. 34. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

SEC. 35. The general assembly shall not grant any title of nobility, or confer hereditary distinctions.

SEC. 36. Emigration from the State shall not be prohibited.

SEC. 37. There shall be neither slavery nor involuntary servitude within the State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted. No indenture of any negro or mulatto, made and executed out of the bounds of the State, shall be valid within the State.

ARTICLE II.

SUFFRAGE AND ELECTION.

SECTION 1. All elections shall be free and equal.

SEC. 2. In all elections not otherwise provided for by this constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election; and every white male of foreign birth of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote in the township or precinct where he may reside.

SEC. 3. No soldier, seaman, or marine in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State, in consequence of having been stationed within the same; nor shall any such soldier, seaman, or marine have the right to vote.

SEC. 4. No person shall be deemed to have lost his residence in the State by reason of his absence, either on business of this State or of the United States.

SEC. 5. No negro or mulatto shall have the right of suffrage.

SEC. 6. Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward to procure his election.

SEC. 7. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 8. The general assembly shall have power to deprive of the right of suffrage, and to render ineligible, any person convicted of an infamous crime.

SEC. 9. No person holding a lucrative office or appointment under the United States, or under this State, shall be eligible to a seat in the general assembly; nor shall any person hold more than one lucrative office at the same time, except as in this consti-

tution expressly permitted: *Provided*, That officers in the militia, to which there is attached no annual salary, and the office of deputy postmaster, where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative: *And provided also*, That counties containing less than one thousand polls may confer the office of clerk, recorder, and auditor, or any two of said offices, upon the same person.

SEC. 10. No person who may hereafter be a collector or holder of public moneys shall be eligible to any office of trust or profit until he shall have accounted for and paid over, according to law, all sums for which he may be liable.

SEC. 11. In all cases in which it is provided that an office shall not be filled by the same person more than a certain number of years continuously, an appointment *pro tempore* shall not be reckoned a part of that term.

SEC. 12. In all cases, except treason, felony, and breach of the peace, electors shall be free from arrest in going to elections, during their attendance there, and in returning from the same.

SEC. 13. All elections by the people shall be by ballot; and all elections by the general assembly, or by either branch thereof, shall be *viva voce*.

SEC. 14. All general elections shall be held on the second Tuesday in October.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government are divided into three separate departments, the legislative, the executive, including the administrative and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

ARTICLE IV.

LEGISLATIVE.

SECTION 1. The legislative authority of the State shall be vested in a general assembly, which shall consist of a senate and a house of representatives. The style of every law shall be: "*Be it enacted by the general assembly of the State of Indiana,*" and no law shall be enacted except by bill.

SEC. 2. The senate shall not exceed fifty, nor the house of representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts into which the State may from time to time be divided.

SEC. 3. Senators shall be elected for the term of four years, and representatives for the term of two years, from the day next after their general election: *Provided, however*, That the senators-elect, at the second meeting of the general assembly under this constitution, shall be divided by lot into two equal classes, as nearly as may be, and the seats of senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of increase in the number of senators, they shall be so annexed by lot to one or the other of the two classes, as to keep them as nearly equal as practicable.

SEC. 4. The general assembly shall, at its second session after the adoption of this constitution, and every six years thereafter, cause an enumeration to be made of all the white male inhabitants over the age of twenty-one years.

SEC. 5. The number of senators and representatives shall, at the session next following each period of making such enumeration, be fixed by law, and apportioned among the several counties, according to the number of white male inhabitants above twenty-one years of age in each: *Provided*, That the first and second elections of members of the general assembly under this constitution shall be according to the apportionment last made by the general assembly before the adoption of this constitution.

SEC. 6. A senatorial or representative district, where more than one county shall

constitute a district, shall be composed of contiguous counties; and no county for senatorial apportionment shall ever be divided.

SEC. 7. No person shall be a senator or a representative who at the time of his election is not a citizen of the United States; nor any one who has not been for two years next preceding his election an inhabitant of this State, and for one year next preceding his election an inhabitant of the county or district whence he may be chosen. Senators shall be at least twenty-five, and representatives at least twenty-one, years of age.

SEC. 8. Senators and representatives, in all cases except treason, felony, and breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and shall not be subject to any civil process during the session of the general assembly, nor during the fifteen days next before the commencement thereof. For any speech or debate in either house a member shall not be questioned in any other place.

SEC. 9. The sessions of the general assembly shall be held biennially at the capital of the State, commencing on the Thursday next after the first Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day of every second year thereafter, unless a different day or place shall have been appointed by law. But if, in the opinion of the governor, the public welfare shall require it, he may at any time, by proclamation, call a special session.

SEC. 10. Each house when assembled shall choose its own officers, (the president of the senate excepted,) judge the elections, qualifications, and returns of its own members, determine its rules of proceeding, and sit upon its own adjournment. But neither house shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which it may be sitting.

SEC. 11. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may meet, adjourn from day to day, and compel the attendance of absent members. A quorum being in attendance, if either house fail to effect an organization within the first five days thereafter, the members of the house so failing shall be entitled to no compensation from the end of the said five days until an organization shall have been effected.

SEC. 12. Each house shall keep a journal of its proceedings, and publish the same. The yeas and nays on any question shall, at the request of any two members, be entered, together with the names of the members demanding the same, on the journal: *Provided*, That, on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays.

SEC. 13. The doors of each house and of committees of the whole shall be kept open, except in such cases as, in the opinion of either house, may require secrecy.

SEC. 14. Either house may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

SEC. 15. Either house, during its session, may punish by imprisonment any person not a member who shall have been guilty of disrespect to the house, by disorderly or contemptuous behavior in its presence; but such imprisonment shall not at any time exceed twenty-four hours.

SEC. 16. Each house shall have all powers necessary for a branch of the legislative department of a free and independent State.

SEC. 17. Bills may originate in either house, but may be amended or rejected in the other, except that bills for raising revenue shall originate in the house of representatives.

SEC. 18. Every bill shall be read by sections on three several days in each house, unless, in case of emergency, two-thirds of the house where such bill may be depending shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

SEC. 19. Every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be

embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 20. Every act and joint resolution shall be plainly worded, avoiding as far as practicable the use of technical terms.

SEC. 21. No act shall ever be revised or amended by mere reference to its title; but the act revised or section amended shall be set forth and published at full length.

SEC. 22. The general assembly shall not pass local or special laws in any of the following-enumerated cases; that is to say:

Regulating the jurisdiction and duties of justices of the peace and of constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying out, opening, and working on highways, and for the election or appointment of supervisors;

Vacating roads, town-plats, streets, alleys, and public squares;

Summoning and impanelling grand and petit juries, and providing for their compensation;

Regulating county and township business;

Regulating the election of county and township officers, and their compensation;

For the assessment and collection of taxes for State, county, township, or road purposes;

Providing for supporting common schools, and for the preservation of school-funds;

In relation to fees or salaries;

In relation to interest on money;

Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting;

Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

SEC. 23. In all the cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the State.

SEC. 24. Provision may be made by general law for bringing suit against the State as to all liabilities originating after the adoption of this constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.

SEC. 25. A majority of all the members elected to each house shall be necessary to pass every bill or joint resolution; and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses.

SEC. 26. Any member of either house shall have the right to protest, and to have his protest, with his reasons for dissent, entered on the journal.

SEC. 27. Every statute shall be a public law, unless otherwise declared in the statute itself.

SEC. 28. No act shall take effect until the same shall have been published and circulated in the several counties of this State by authority, except in case of emergency, which emergency shall be declared in the preamble, or in the body of the law.

SEC. 29. The members of the general assembly shall receive for their services a compensation to be fixed by law; but no increase of compensation shall take effect during the session at which such increase may be made. No session of the general assembly, except the first under this constitution, shall extend beyond the term of sixty-one days, nor any special session beyond the term of forty days.

SEC. 30. No senator or representative shall, during the term for which he may have been elected, be eligible to any office, the election to which is vested in the general assembly; nor shall he be appointed to any civil office of profit which shall have been created, or the emoluments of which shall have been increased during such term; but this latter provision shall not be construed to apply to any office elective by the people.

ARTICLE V.

EXECUTIVE.

SECTION 1. The executive power of the State shall be vested in a governor. He shall hold his office during four years, and shall not be eligible more than four years in any period of eight years.

SEC. 2. There shall be a lieutenant-governor, who shall hold his office during four years.

SEC. 3. The governor and lieutenant-governor shall be elected at the times and places of choosing members of the general assembly.

SEC. 4. In voting for governor and lieutenant-governor, the electors shall designate for whom they vote as governor, and for whom as lieutenant-governor. The returns of every election for governor and lieutenant-governor shall be sealed up and transmitted to the seat of government, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

SEC. 5. The person respectively having the highest number of votes for governor and lieutenant-governor, shall be elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the general assembly shall by joint vote forthwith proceed to elect one of the said persons governor or lieutenant, as the case may be.

SEC. 6. Contested elections for governor or lieutenant-governor shall be determined by the general assembly, in such manner as may be prescribed by law.

SEC. 7. No person shall be eligible to the office of governor or lieutenant-governor who shall not have been five years a citizen of the United States, and also a resident of the State of Indiana during the five years next preceding his election; nor shall any person be eligible to either of the said offices who shall not have attained the age of thirty years.

SEC. 8. No member of Congress, or person holding any office under the United States, or under this State, shall fill the office of governor or lieutenant-governor.

SEC. 9. The official term of the governor and lieutenant-governor shall commence on the second Monday of January, in the year one thousand eight hundred and fifty-three, and on the same day every fourth year thereafter.

SEC. 10. In case of the removal of the governor from office, or of his death, resignation, or inability to discharge the duties of the office, the same shall devolve on the lieutenant-governor; and the general assembly shall by law provide for the case of removal from office, death, resignation, or inability, both of the governor and lieutenant-governor, declaring what officer shall then act as governor; and such officer shall act accordingly, until the disability be removed, or a governor be elected.

SEC. 11. Whenever the lieutenant-governor shall act as governor, or shall be unable to attend as president of the senate, the senate shall elect one of its own members as president for the occasion.

SEC. 12. The governor shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, or to suppress insurrection, or to repel invasion.

SEC. 13. He shall from time to time give to the general assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient.

SEC. 14. Every bill which shall have passed the general assembly shall be presented to the governor; if he approve he shall sign it, but if not he shall return it, with his objections, to the house in which it shall have originated, which house shall enter the objections at large upon its journals, and proceed to reconsider the bill. If after such reconsideration a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the governor's objections, to the other house, by which it shall likewise be reconsidered; and if approved by a majority of all the members elected to that house, it shall be a law. If any bill shall not be returned by the governor within three days, Sundays excepted, after it shall have been pre-

sented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the governor within five days next after such adjournment shall file such bill, with his objection thereto, in the office of secretary of State, who shall lay the same before the general assembly at its next session, in like manner as if it had been returned by the governor. But no bill shall be presented to the governor within two days next previous to the final adjournment of the general assembly.

SEC. 15. The governor shall transact all necessary business with the officers of government, and may require information in writing from the officers of the administrative department, upon any subject relating to the duties of their respective offices.

SEC. 16. He shall take care that the laws be faithfully executed.

SEC. 17. He shall have the power to grant reprieves, commutations, and pardons, after conviction, for all offences except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the general assembly at its next meeting, when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the general assembly at its next meeting each case of reprieve, commutation, or pardon granted, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted: *Provided, however,* That the general assembly may by law constitute a council, to be composed of officers of State, without whose advice and consent the governor shall not have power to grant pardons in any case, except such as may by law be left to his sole power.

SEC. 18. When, during a recess of the general assembly, a vacancy shall happen in any office, the appointment to which is vested in the general assembly; or when at any time a vacancy shall have occurred in any other State office, or in the office of judge of any court, the governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

SEC. 19. He shall issue writs of election to fill such vacancies as may have occurred in the general assembly.

SEC. 20. Should the seat of government become dangerous from disease or a common enemy, he may convene the general assembly at any other place.

SEC. 21. The lieutenant-governor shall, by virtue of his office, be president of the senate, have a right when in committee of the whole to join in debate, and to vote on all subjects; and whenever the senate shall be equally divided, he shall give the casting vote.

SEC. 22. The governor shall at stated times receive for his services a compensation which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 23. The lieutenant-governor, while he shall act as president of the senate, shall receive for his services the same compensation as the speaker of the house of representatives; and any person acting as governor shall receive the compensation attached to the office of governor.

SEC. 24. Neither the governor nor lieutenant-governor shall be eligible to any other office during the term for which he shall have been elected.

ARTICLE VI.

ADMINISTRATIVE.

SECTION 1. There shall be elected by the voters of the State, a secretary, an auditor, and a treasurer of state, who shall severally hold their offices for two years. They shall perform such duties as may be enjoined by law; and no person shall be eligible to either of said offices more than four years in any period of six years.

SEC. 2. There shall be elected in each county by the voters thereof, at the time of holding general elections, a clerk of the circuit court, auditor, recorder, treasurer,

sheriff, coroner, and surveyor. The clerk, auditor, and recorder shall continue in office four years; and no person shall be eligible to the office of clerk, recorder, or auditor more than eight years in any period of twelve years. The treasurer, sheriff, coroner, and surveyor shall continue in office two years; and no person shall be eligible to the office of treasurer or sheriff more than four years in any period of six years.

SEC. 3. Such other county and township officers as may be necessary shall be elected or appointed in such manner as may be prescribed by law.

SEC. 4. No person shall be elected or appointed as a county officer who shall not be an elector of the county; nor any one who shall not have been an inhabitant thereof during one year next preceding his appointment, if the county shall have been so long organized; but if the county shall not have been so long organized, then within the limits of the county or counties out of which the same shall have been taken.

SEC. 5. The governor, and the secretary, auditor, and treasurer of state, shall severally reside, and keep the public records, books, and papers in any manner relating to their respective offices, at the seat of government.

SEC. 6. All county, township, and town officers shall reside within their respective counties, townships, and towns, and shall keep their respective offices at such places therein, and perform such duties as may be prescribed by law.

SEC. 7. All State officers shall, for crime, incapacity, or negligence, be liable to be removed from office, either by impeachment by the house of representatives, to be tried by the senate, or by a joint resolution of the general assembly, two-thirds of the members elected to each branch voting in either case therefor.

SEC. 8. All state, county, township, and town officers may be impeached or removed from office in such manner as may be prescribed by law.

SEC. 9. Vacancies in county, township, and town offices shall be filled in such manner as may be prescribed by law.

SEC. 10. The general assembly may confer upon the boards doing county business in the several counties powers of a local administrative character.

ARTICLE VII.

JUDICIAL.

SECTION 1. The judicial power of the State shall be vested in a supreme court, in circuit courts, and in such inferior courts as the general assembly may establish.

SEC. 2. The supreme court shall consist of not less than three nor more than five judges, a majority of whom shall form a quorum. They shall hold their offices for six years, if they so long behave well.

SEC. 3. The State shall be divided into as many districts as there are judges of the supreme court; and such districts shall be formed of contiguous territory, as nearly equal in population as, without dividing a county, the same can be made. One of said judges shall be elected from each district, and reside therein; but said judges shall be elected by the electors of the State at large.

SEC. 4. The supreme court shall have jurisdiction coextensive with the limits of the State, in appeals and writs of error, under such regulations and restrictions as may be prescribed by law. It shall also have such original jurisdiction as the general assembly may confer.

SEC. 5. The supreme court shall, upon the decision of every case, give a statement in writing of each question arising in the record of such case, and the decision of the court thereon.

SEC. 6. The general assembly shall provide by law for the speedy publication of the decisions of the supreme court made under this constitution; but no judge shall be allowed to report such decisions.

SEC. 7. There shall be elected by the voters of the State a clerk of the supreme court, who shall hold his office four years, and whose duties shall be prescribed by law.

SEC. 8. The circuit courts shall each consist of one judge, and shall have such civil and criminal jurisdiction as may be prescribed by law.

SEC. 9. The State shall, from time to time, be divided into judicial circuits; and a judge for each circuit shall be elected by the voters thereof. He shall reside within the circuit, and shall hold his office for the term of six years, if he so long behave well.

SEC. 10. The general assembly may provide by law that the judge of one circuit may hold the courts of another circuit, in cases of necessity or convenience; and in case of temporary inability of any judge, from sickness or other cause, to hold the courts in his circuit, provision may be made by law for holding such courts.

SEC. 11. There shall be elected in each judicial circuit, by the voters thereof, a prosecuting attorney, who shall hold his office for two years.

SEC. 12. Any judge or prosecuting attorney who shall have been convicted of corruption or other high crime, may, on information in the name of the State, be removed from office by the supreme court, or in such other manner as may be prescribed by law.

SEC. 13. The judges of the supreme court and circuit courts shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office.

SEC. 14. A competent number of justices of the peace shall be elected by the voters in each township in the several counties. They shall continue in office four years, and their powers and duties shall be prescribed by law.

SEC. 15. All judicial officers shall be conservators of the peace in their respective jurisdictions.

SEC. 16. No person elected to any judicial office shall, during the term for which he shall have been elected, be eligible to any office of trust or profit under the State, other than a judicial office.

SEC. 17. The general assembly may modify or abolish the grand-jury system.

SEC. 18. All criminal prosecutions shall be carried on in the name and by the authority of the State; and the style of all process shall be: "The State of Indiana."

SEC. 19. Tribunals of conciliation may be established, with such powers and duties as shall be prescribed by law; or the powers and duties of the same may be conferred upon other courts of justice; but such tribunals or other courts, when sitting as such, shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference, and agree to abide the judgment of such tribunal or court.

SEC. 20. The general assembly, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, whose duty it shall be to revise, simplify, and abridge the rules, practice, pleadings, and forms of the courts of justice. And they shall provide for abolishing the distinct forms of action at law now in use, and that justice shall be administered in a uniform mode of pleading, without distinction between law and equity. And the general assembly may also make it the duty of said commissioners to reduce into a systematic code the general statute law of the State; and said commissioners shall report the result of their labors to the general assembly, with such recommendations and suggestions as to abridgment and amendment as to said commissioners may seem necessary or proper. Provision shall be made by law for filling vacancies, regulating the tenure of office, and the compensation of said commissioners.

SEC. 21. Every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice.

ARTICLE VIII.

EDUCATION.

SECTION 1. Knowledge and learning generally diffused throughout a community being essential to the preservation of a free government, it shall be the duty of the general assembly to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement, and to provide by law for a general and uniform system of common schools, wherein tuition shall be without charge, and equally to all.

SEC. 2. The common-school fund shall consist of the congressional township fund, and the lands belonging thereto;

The surplus-revenue fund;

The saline fund, and the lands belonging thereto;

The bank-tax fund, and the fund arising from the one hundred and fourteenth section of the charter of the State Bank of Indiana;

The fund to be derived from the sale of county seminaries, and the moneys and property heretofore held for such seminaries; from the fines assessed for breaches of the penal laws of the State; and from all forfeitures which may accrue;

All lands and other estate which shall escheat to the State for want of heirs or kindred entitled to the inheritance;

All lands that have been, or may hereafter be, granted to the State, where no special purpose is expressed in the grant, and the proceeds of the sales thereof, including the proceeds of the sales of the swamp-lands granted to the State of Indiana by the act of Congress of 28th of September, 1850, after deducting the expense of selecting and draining the same;

Taxes on the property of corporations that may be assessed by the general assembly for common-school purposes.

SEC. 3. The principal of the common-school fund shall remain a perpetual fund, which may be increased, but shall never be diminished; and the income thereof shall be inviolably appropriated to the support of common schools, and to no other purpose whatever.

SEC. 4. The general assembly shall invest, in some safe and profitable manner, all such portions of the common-school fund as have not heretofore been intrusted to the several counties; and shall make provision by law for the distribution among the several counties of the interest thereof.

SEC. 5. If any county shall fail to demand its proportion of such interest for common-school purposes, the same shall be reinvested for the benefit of such county.

SEC. 6. The several counties shall be held liable for the preservation of so much of the said fund as may be intrusted to them, and for the payment of the annual interest thereon.

SEC. 7. All trust-funds held by the State shall remain inviolate, and be faithfully and exclusively applied to the purposes for which the trust was created.

SEC. 8. The general assembly shall provide for the election, by the voters of the State, of a State superintendent of public instruction, who shall hold his office for two years, and whose duties and compensation shall be prescribed by law.

ARTICLE IX.

STATE INSTITUTIONS.

SECTION 1. It shall be the duty of the general assembly to provide by law for the support of institutions for the education of the deaf and dumb, and of the blind, and also for the treatment of the insane.

SEC. 2. The general assembly shall provide houses of refuge for the correction and reformation of juvenile offenders.

SEC. 3. The county boards shall have power to provide farms, as an asylum for those persons who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathies and aid of society.

ARTICLE X.

FINANCE.

SECTION 1. The general assembly shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law.

SEC. 2. All the revenues derived from the sale of any of the public works belonging to the State, and from the net annual income thereof, and any surplus that may at any time remain in the treasury derived from taxation for general State purposes, after the payment of the ordinary expenses of the government, and of the interest on bonds of the State, other than bank bonds, shall be annually applied, under the direction of the general assembly, to the payment of the principal of the public debt.

SEC. 3. No money shall be drawn from the treasury but in pursuance of appropriations made by law.

SEC. 4. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the general assembly.

SEC. 5. No law shall authorize any debt to be contracted on behalf of the State, except in the following cases: To meet casual deficits in the revenue, to pay the interest on the State debt, to repel invasion, suppress insurrection, or, if hostilities be threatened, provide for the public defence.

SEC. 6. No county shall subscribe for stock in any incorporated company, unless the same be paid for at the time of such subscription; nor shall any county loan its credit to any incorporated company, nor borrow money for the purpose of taking stock in any such company; nor shall the general assembly ever, on behalf of the State, assume the debts of any county, city, town, or township, nor of any corporation whatever.

ARTICLE XI.

CORPORATIONS.

SECTION 1. The general assembly shall not have power to establish or incorporate any bank or banking company, or moneyed institution, for the purpose of issuing bills of credit, or bills payable to order or bearer, except under the conditions prescribed in this constitution.

SEC. 2. No banks shall be established otherwise than under a general banking law, except as provided in the fourth section of this article.

SEC. 3. If the general assembly shall enact a general banking law, such law shall provide for the registry and countersigning by an officer of state of all paper credit designed to be circulated as money, and ample collateral security, readily convertible into specie, or the redemption of the same in gold or silver, shall be required, which collateral security shall be under the control of the proper officer or officers of state.

SEC. 4. The general assembly may also charter a bank with branches without collateral security, as required in the preceding section.

SEC. 5. If the general assembly shall establish a bank with branches, the branches shall be mutually responsible for each other's liabilities upon all paper credit issued as money.

SEC. 6. The stockholders in every bank or banking company shall be individually responsible to an amount over and above their stock, equal to their respective shares of stock, for all debts or liabilities of said bank or banking company.

SEC. 7. All bills or notes issued as money shall be at all times redeemable in gold or silver; and no law shall be passed sanctioning, directly or indirectly, the suspension by any bank or banking company of specie payments.

SEC. 8. Holders of bank-notes shall be entitled, in case of insolvency, to preference of payment of over all other creditors.

SEC. 9. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals loaning money.

SEC. 10. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter to close its business.

SEC. 11. The general assembly is not prohibited from investing the trust-funds in a bank with branches; but in case of such investment, the safety of the same shall be guaranteed by unquestionable security.

SEC. 12. The State shall not be a stockholder in any bank after the expiration of the present bank-charter; nor shall the credit of the State ever be given or loaned in

aid of any person, association, or corporation; nor shall the State hereafter become a stockholder in any corporation or association.

SEC. 13. Corporations, other than banking, shall not be created by special act, but may be formed under general law.

SEC. 14. Dues from corporations, other than banking, shall be secured by such individual liability of the corporators, or other means, as may be prescribed by law.

ARTICLE XII.

MILITIA.

SECTION 1. The militia shall consist of all able-bodied white male persons, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States, or of this State; and shall be organized, officered, armed, equipped, and trained in such manner as may be provided by law.

SEC. 2. The governor shall appoint the adjutant, quartermaster, and commissary-generals.

SEC. 3. All militia officers shall be commissioned by the governor, and shall hold their offices not longer than six years.

SEC. 4. The general assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and fix the rank of all staff officers.

SEC. 5. The militia may be divided into classes of sedentary and active militia, in such manner as shall be prescribed by law.

SEC. 6. No person conscientiously opposed to bearing arms shall be compelled to do militia duty; but such person shall pay an equivalent for exemption, the amount to be prescribed by law.

ARTICLE XIII.*

NEGROES AND MULATTOES.

SECTION 1. No negro or mulatto shall come into, or settle in the State, after the adoption of this constitution.

SEC. 2. All contracts made with any negro or mulatto coming into the State, contrary to the provisions of the foregoing section, shall be void; and any person who shall employ such negro or mulatto, or otherwise encourage him to remain in the State, shall be fined in any sum not less than ten dollars, nor more than five hundred dollars.

SEC. 3. All fines which may be collected for violation of the provisions of this article, or of any law which may hereafter be passed for the purpose of carrying the same into execution, shall be set apart and appropriated for the colonization of such negroes and mulattoes, and their descendants, as may be in the State at the adoption of this constitution, and may be willing to emigrate.

SEC. 4. The general assembly shall pass laws to carry out the provisions of this article.

ARTICLE XIV.

BOUNDARIES.

SECTION 1. In order that the boundaries of the State may be known and established, it is hereby ordained and declared, that the State of Indiana is bounded on the east by the meridian-line which forms the western boundary of the State of Ohio; on the south by the Ohio River; from the mouth of the Great Miami River to the mouth of the Wabash River; on the west by a line drawn along the middle of the Wabash River, from its mouth, to a point where a due-north line drawn from the town of Vincennes would last touch the northwestern shore of said Wabash River; and thence by a due-north line until the same shall intersect an east and west line drawn through a point ten miles north of the southern extreme of Lake Michigan; on the north by said east and west line until the same shall intersect the first-mentioned meridian-line, which forms the western boundary of the State of Ohio.

* The courts of Indiana have declared this article repugnant to the Constitution of the United States.

SEC. 2. The State of Indiana shall possess jurisdiction and sovereignty coextensive with the boundaries declared in the preceding section; and shall have concurrent jurisdiction in civil and criminal cases with the State of Kentucky on the Ohio River, and with the State of Illinois on the Wabash River, so far as said rivers form the common boundary between this State and said States respectively.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. All officers whose appointment is not otherwise provided for in this constitution, shall be chosen in such manner as now is, or hereafter may be, prescribed by law.

SEC. 2. When the duration of any office is not provided for by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the general assembly shall not create any office, the tenure of which shall be longer than four years.

SEC. 3. Whenever it is provided in this constitution, or in any law which may be hereafter passed, that any officer, other than a member of the general assembly, shall hold his office for any given term, the same shall be construed to mean that such officer shall hold his office for such term, and until his successor shall have been elected and qualified.

SEC. 4. Every person elected or appointed to any office under this constitution shall, before entering on the duties thereof, take an oath or affirmation to support the constitution of this State and of the United States, and also an oath of office.

SEC. 5. There shall be a seal of State kept by the governor for official purposes, which shall be called "The Seal of the State of Indiana."

SEC. 6. All commissions shall issue in the name of the State, shall be signed by the governor, sealed with the State seal, and attested by the secretary of state.

SEC. 7. No county shall be reduced to an area less than four hundred square miles; nor shall any county under that area be further reduced.

SEC. 8. No lottery shall be authorized, nor shall the sale of lottery-tickets be allowed.

SEC. 9. The following grounds, owned by the State in Indianapolis, namely: The State-house Square, the Governor's Circle, and so much of out-lot numbered one hundred and forty-seven, as lies north of the arm of the central canal, shall not be sold or leased.

SEC. 10. It shall be the duty of the general assembly to provide for the permanent inclosure and preservation of the Tippecanoe battle-ground.

ARTICLE XVI.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either branch of the general assembly, and, if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the general assembly to be chosen at the next general election; and if in the general assembly so next chosen such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such amendment or amendments to the electors of the State; and if a majority of said electors shall ratify the same, such amendment or amendments shall become a part of this constitution.

SEC. 2. If two or more amendments shall be submitted at the same time they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately; and while an amendment or amendments which shall have been agreed upon by one general assembly shall be awaiting the action of a succeeding general assembly, or of the electors, no additional amendment or amendments shall be proposed.

SCHEDULE.

This constitution, if adopted, shall take effect on the first day of November, in the year one thousand eight hundred and fifty-one, and shall supersede the constitution adopted in the year one thousand eight hundred and sixteen. That no inconvenience may arise from the change in the government, it is hereby ordained as follows:

SECTION 1. All laws now in force, and not inconsistent with this constitution, shall remain in force until they shall expire or be repealed.

SEC. 2. All indictments, prosecutions, suits, pleas, complaints, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari*, and injunctions shall be carried on in the several courts in the same manner as is now provided by law.

SEC. 3. All fines, penalties, and forfeitures due or accruing to the State, or to any county therein, shall inure to the State, or to such county, in the manner prescribed by law. All bonds executed to the State, or to any officer in his official capacity, shall remain in force, and inure to the use of those concerned.

SEC. 4. All acts of incorporation for municipal purposes shall continue in force under this constitution until such time as the general assembly shall, in its discretion, modify or repeal the same.

SEC. 5. The governor, at the expiration of the present official term, shall continue to act until his successor shall have been sworn into office.

SEC. 6. There shall be a session of the general assembly, commencing on the first Monday of December, in the year one thousand eight hundred and fifty-one.

SEC. 7. Senators now in office and holding over under the existing constitution, and such as may be elected at the next general election, and the representatives then elected, shall continue in office until the first general election under this constitution.

SEC. 8. The first general election under this constitution shall be held in the year one thousand eight hundred and fifty-two.

SEC. 9. The first election for governor, lieutenant-governor, judges of the supreme court and circuit courts, clerk of the supreme court, prosecuting attorney, secretary, auditor, and treasurer of State and State superintendent of public instruction, under this constitution, shall be held at the general election in the year one thousand eight hundred and fifty-two; and such of said officers as may be in office when this constitution shall go into effect shall continue in their respective offices until their successors shall have been elected and qualified.

SEC. 10. Every person elected by popular vote, and now in any office which is continued by this constitution, and every person who shall be so elected to any such office before the taking effect of this constitution, (except as in this constitution otherwise provided,) shall continue in office until the term for which such person has been or may be elected shall expire: *Provided*, That no such person shall continue in office after the taking effect of this constitution for a longer period than the term of such office in this constitution prescribed.

SEC. 11. On the taking effect of this constitution, all officers thereby continued in office shall, before proceeding in the further discharge of their duties, take an oath or affirmation to support this constitution.

SEC. 12. All vacancies that may occur in existing offices prior to the first general election under this constitution shall be filled in the manner now prescribed by law.

SEC. 13. At the time of submitting this constitution to the electors for their approval or disapproval, the article numbered thirteen, in relation to negroes and mulattoes, shall be submitted as a distinct proposition, in the following form: "Exclusion and colonization of negroes and mulattoes," "aye" or "no." And if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this constitution, otherwise it shall be void, and form no part thereof.

SEC. 14. No article or section of this constitution shall be submitted as a distinct proposition to a vote of the electors otherwise than as herein provided.

SEC. 15. Whenever a portion of the citizens of the counties of Perry and Spencer shall deem it expedient to form of the contiguous territory of said counties a new

county, it shall be the duty of those interested in the organization of such new county to lay off the same by proper metes and bounds, of equal portions as nearly as practicable, not to exceed one-third of the territory of each of said counties. The proposal to create such new county shall be submitted to the voters of said counties at a general election, in such manner as shall be prescribed by law. And if a majority of all the votes given at said election shall be in favor of the organization of said new county, it shall be the duty of the general assembly to organize the same out of the territory thus designated.

SEC. 16. The general assembly may alter or amend the charter of Clarksville, and make such regulations as may be necessary for carrying into effect the objects contemplated in granting the same; and the funds belonging to said town shall be applied according to the intention of the grantor.

Done in convention, at Indianapolis, the tenth day of February, in the year of our Lord one thousand eight hundred and fifty-one, and of the Independence of the United States the seventy-fifth.

GEORGE WHITFIELD CARR, *President*.

WM. H. ENGLISH, *Secretary*.

AMENDMENT TO THE CONSTITUTION OF 1851.

RATIFIED FEBRUARY 18, 1873.

No law or resolution shall ever be passed by the general assembly of the State of Indiana that shall recognize any liability of this State to pay or redeem any certificate of stock issued in pursuance of an act entitled "An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville," passed January 19, 1846, and an act supplemental to said act, passed January 29, 1847, which, by the provisions of said acts, or either of them, shall be payable exclusively from the proceeds of the canal-lands, and the tolls and revenues of the canal in said acts mentioned, and no such certificate of stocks shall ever be paid by this State.

IOWA.

TREATY WITH FRANCE CEDING LOUISIANA—1803.

[See "Louisiana," pages 687-690.]

THE DISTRICT GOVERNMENT OF LOUISIANA—1804.

[See "Louisiana," pages 691-695.]

THE TERRITORIAL GOVERNMENT OF LOUISIANA—1805.

[See "Louisiana," pages 697-698.]

THE TERRITORIAL GOVERNMENT OF MISSOURI—1812.

[See "Missouri," pages 1097-1101.]

THE TERRITORIAL GOVERNMENT OF MICHIGAN—1834.*

[TWENTY-THIRD CONGRESS, FIRST SESSION.]

Be it enacted, &c., That all that part of the territory of the United States bounded on the east by the Mississippi River, on the south by the State of Missouri, and a line drawn due west from the northwest corner of said State to the Missouri River; on the southwest and west by the Missouri River and the White Earth River, falling into the same; and on the north by the northern boundary of the United States, shall be, and hereby is, for the purpose of temporary government, attached to, and made a part of, the Territory of Michigan, and the inhabitants therein shall be entitled to the same privileges and immunities, and be subject to the same laws, rules, and regulations, in all respects, as the other citizens of Michigan Territory.

APPROVED, June 28, 1834.

THE TERRITORIAL GOVERNMENT OF WISCONSIN—1836.

[See "Wisconsin," pages 2021-2025.]

THE TERRITORIAL GOVERNMENT OF IOWA—1838.

[TWENTY-FIFTH CONGRESS, SECOND SESSION.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the third day of July next, all that part

* This was the first special provision made for the government of that portion of the Territory of Missouri not included within the boundaries of the State of Missouri, as defined by the act of Congress approved March 6, 1820.

of the present Territory of Wisconsin, which lies west of the Mississippi River, and west of a line drawn due north from the headwaters or sources of the Mississippi to the territorial line, shall, for the purposes of temporary government, be and constitute a separate territorial government by the name of Iowa, and that from and after the said third day of July next, the present territorial government of Wisconsin shall extend only to that part of the present Territory of Wisconsin which lies east of the Mississippi River. And after the said third day of July next, all power and authority of the government of Wisconsin in and over the Territory hereby constituted shall cease: *Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now appertaining to any Indians within the said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to impair the obligations of any treaty now existing between the United States and such Indians, or to impair or otherwise to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty or law, or otherwise, which it would have been competent to the Government to make, if this act had never been passed: *Provided*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing the Territory hereby established into one or more other Territories, in such manner and at such times as Congress shall, in its discretion, deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over the said Territory of Iowa shall be vested in a governor, who shall hold his office for three years, unless sooner removed by the President of the United States. The governor shall reside within the said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve of all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of the said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of the said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws, and one copy of the executive proceedings, on or before the first Monday in December in each year, to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives, for the use of Congress. And in case of the death, removal, resignation, or necessary absence of the governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall consist of twenty-six members possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. An apportionment shall be made as nearly equal as practicable, among the several counties, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the said members of the council and house of representatives shall reside in and be inhabitants of the district for which they may be elected. Previous to the first election, the governor of the Territory shall cause the census or enumeration of the inhabitants of the several

counties in the Territory to be taken, and made by the sheriffs of the said counties, respectively, unless the same shall have been taken within three months previous to the third day of July next, and returns thereof made by said sheriffs to the governor. The first election shall be held at such time and place, and be conducted in such manner, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts are entitled under this act. The number of persons authorized to be elected having the greatest number of votes in each of the said counties or districts for the council, shall be declared by the said governor to be duly elected to the said council; and the person or persons having the greatest number of votes for the house of representatives, equal to the number to which each county may be entitled, shall also be declared by the governor to be duly elected: *Provided*, The governor shall order a new election when there is a tie between two or more persons voted for, to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place, and on such day as he shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties to the council and house of representatives, according to population, shall be prescribed by law, as well as the day of the annual commencement of the session of the said legislative assembly; but no session in any year shall exceed the term of seventy-five days.

SEC. 5. *And be it further enacted*, That every free white male citizen of the United States, above the age of twenty-one years, who shall have been an inhabitant of said Territory at the time of its organization, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters at all subsequent elections shall be such as shall be determined by the legislative assembly: *Provided*, That the right of suffrage shall be exercised only by citizens of the United States.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws of the governor and legislative assembly shall be submitted to, and if disapproved by the Congress of the United States, the same shall be null and of no effect.

SEC. 7. *And be it further enacted*, That all township officers, and all county officers, except judicial officers, justices of the peace, sheriffs, and clerks of courts, shall be elected by the people, in such manner as is now prescribed by the laws of the Territory of Wisconsin, or as may, after the first election, be provided by the governor and legislative assembly of Iowa Territory. The governor shall nominate, and by and with the advice and consent of the legislative council, shall appoint all judicial officers, justices of the peace, sheriffs, and the militia officers, except those of the staff, and all civil officers not herein provided for. Vacancies occurring in the recess of the council shall be filled by appointments from the governor, which shall expire at the end of the next session of the legislative assembly; but the said governor may appoint, in the first instance, the aforesaid officers, who shall hold their offices until the end of the next session of the said legislative assembly.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold, or be appointed to, any office created, or the salary and emoluments of which shall have been increased, whilst he was a member, during the term for which he shall have been elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, or any of its officers, except as a militia officer, shall be a member of the said council or house of representatives, or shall hold any office under the government of the said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of the said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice, and two associate judges, any two of whom shall be a quorum, and who shall hold a term at the seat

of government of the said Territory annually, and they shall hold their offices during the term of four years. The said Territory shall be divided into three judicial districts; and a district court or courts shall be held in each of the three districts, by one of the judges of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointment, respectively, reside in the districts which shall be assigned to them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and of the justices of the peace, shall be as limited by law: *Provided, however,* That justices of the peace shall not have jurisdiction of any matter of controversy, when the title or boundaries of land may be in dispute, or where the debt or sum claimed exceeds fifty dollars. And the said supreme and district courts, respectively, shall possess a chancery as well as common-law jurisdiction. Each district court shall appoint its clerk, who shall keep his office at the place where the court may be held, and the said clerks shall also be registers in chancery; and any vacancy in said office of clerk happening in the vacation of said court, may be filled by the judge of said district, which appointment shall continue until the next term of said court. And writs of error, bills of exception, and appeals in chancery causes, shall be allowed in all cases, from the final decisions of the said district courts to the supreme court under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court may appoint its own clerk, and every clerk shall hold his office at the pleasure of the court by which he shall have been appointed. And writs of error and appeals from the final decision of the said supreme court shall be allowed and taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, shall exceed one thousand dollars. And each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States. And the first six days of every term of the said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws. And writs of error and appeals from the final decisions of the said courts, in all such cases, shall be made to the supreme court of the Territory, in the same manner as in other cases. The said clerks shall receive in all such cases the same fees which the clerk of the district courts of Wisconsin Territory now receives for similar services.

SEC. 10. *And be it further enacted,* That there shall be an attorney for the said Territory appointed, who shall continue in office four years, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Wisconsin. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, who shall execute all process issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States. He shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory or Wisconsin; and shall, in addition, be paid the sum of two hundred dollars annually, as a compensation for extra services.

SEC. 11. *And be it further enacted,* That the governor, secretary, chief justice, and associate judges, attorney, and marshal, shall be nominated, and by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively, take an oath or affirmation, before some judge or justice of the peace, in the existing Territory of Wisconsin, duly commissioned and qualified to administer an oath or affirmation, or before the Chief Justice, or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and for the faithful discharge of the duties of their respective offices, which said oaths, when so taken, shall be certified by the person before whom the same shall have been taken, and such certificate shall be received and recorded by

the said secretary among the executive proceedings. And, afterwards, the chief justice and associate judges, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The said chief justice and associate judges shall each receive an annual salary of fifteen hundred dollars. The secretary shall receive an annual salary of twelve hundred dollars. The said salaries shall be paid quarter-yearly at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day, during their attendance at the sessions thereof; and three dollars each for every twenty miles' travel, in going to and returning from the said sessions, estimated according to the nearest usually-travelled route. There shall be appropriated, annually, the sum of three hundred and fifty dollars, to be expended by the governor to defray the contingent expenses of the Territory; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the Secretary of the Territory shall annually account to the Secretary of the Treasury of the United States, for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the inhabitants of the said Territory shall be entitled to all the rights, privileges, and immunities heretofore granted and secured to the Territory of Wisconsin and to its inhabitants, and the existing laws of the Territory of Wisconsin shall be extended over said Territory, so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed, by the governor and legislative assembly of the said Territory of Iowa; and further, the laws of the United States are hereby extended over, and shall be in force in said Territory, so far as the same, or any provision thereof, may be applicable.

SEC. 13. *And be it further enacted*, That the legislative assembly of the Territory of Iowa shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said session, or as soon thereafter as may by them be deemed expedient, the said governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory, at such place as they may deem eligible, which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly. And the sum of twenty thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby granted to the said Territory of Iowa, which shall be applied by the governor and legislative assembly thereof to defray the expenses of erecting public buildings at the seat of government.

SEC. 14. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as have been granted to the Delegates from the several Territories of the United States to the said House of Representatives. The first election shall be held at such time and place or places, and be conducted in such manner, as the governor shall appoint and direct. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given to the person so elected.

SEC. 15. *And be it further enacted*, That all suits, process, and proceedings, and all indictments and informations, which shall be undetermined on the third day of July next, in the district courts of Wisconsin Territory, west of the Mississippi River, shall be transferred to be heard, tried, prosecuted, and determined in the district courts hereby established, which may include the said counties.

SEC. 16. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other executive and judicial officers, who shall be in office on the third day of July next, in that portion of the present Territory of Wisconsin which will then, by this act, become the Territory of Iowa, shall be, and are hereby, authorized and required to continue to exercise and perform the duties of their respective offices, as officers of the Territory of Iowa, temporarily and until they, or others, shall be duly appointed to fill their places by the territorial government of Iowa, in the manner herein directed: *Provided*, That no officer shall hold or continue in office, by virtue of this provision, over twelve months from the said third day of July next.

SEC. 17. *And be it further enacted*, That all causes which shall have been or may be removed from the courts held by the present Territory of Wisconsin, in the counties west of the Mississippi River, by appeal or otherwise, into the supreme court for the Territory of Wisconsin, and which shall be undetermined therein on the third day of July next, shall be certified by the clerk of the said supreme court, and transferred to the supreme court of said Territory of Iowa, there to be proceeded in to final determination, in the same manner that they might have been in the said supreme court of the Territory of Wisconsin.

SEC. 18. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, to be expended, by and under the direction of the governor of said Territory of Iowa, in the purchase of a library, to be kept at the seat of government, for the accommodation of the governor, legislative assembly, judges, secretary, marshal, and attorney of said Territory, and such other persons as the governor and legislative assembly shall direct.

SEC. 19. *And be it further enacted*, That, from and after the day named in this act for the organization of the Territory of Iowa, the term of the members of the council and house of representatives of the Territory of Wisconsin shall be deemed to have expired, and an entirely new organization of the council and house of representatives of the Territory of Wisconsin, as constituted by this act, shall take place, as follows: As soon as practicable after the passage of this act, the governor of the Territory of Wisconsin shall apportion the thirteen members of the council and twenty-six members of the house of representatives among the several counties or districts comprised within said Territory, according to their population, as nearly as may be, (Indians excepted.) The first election shall be held at such time as the governor shall appoint and direct; and shall be conducted, and returns thereof made, in all respects, according to the provisions of the laws of said Territory, and the governor shall declare the persons having the greatest number of votes to be elected, and shall order a new election when there is a tie between two or more persons voted for, to supply the vacancy made by such tie. The persons thus elected shall meet at Madison, the seat of government, on such day as he shall appoint, but thereafter the apportioning of the representation in the several counties to the council and house of representatives according to population, the day of their election, and the day for the commencement of the session of the legislative assembly, shall be prescribed by law.

SEC. 20. *And be it further enacted*, That temporarily, and until otherwise provided by law of the legislative assembly, the governor of the Territory of Iowa may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times for holding courts in the several counties in each district, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges and alter the times of holding the courts, or any of them.

APPROVED, June 12, 1838.

THE ENABLING ACT FOR THE STATE OF IOWA—1845.*

[See "Florida," pages 331-332.]

SUPPLEMENTARY ENABLING ACT FOR IOWA—1845.

[28TH CONGRESS, 2D SESSION.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the State of Iowa as elsewhere within the United States.

SEC. 2. *And be it further enacted,* That the said State shall be one district, and be called the district of Iowa; and a district court shall be held therein, to consist of one judge, who shall reside in the said district, and be called a district judge. He shall hold, at the seat of government of the said State, two sessions of the said district court annually, on the first Monday in January, and he shall, in all things, have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district, under an act entitled "An act to establish the judicial courts of the United States." He shall appoint a clerk for the said district, who shall reside and keep the records of the said court at the place of holding the same; and shall receive, for the services performed by him, the same fees to which the clerk of the Kentucky district is by law entitled for similar services.

SEC. 3. *And be it further enacted,* That there shall be allowed to the judge of the said district court the annual compensation of fifteen hundred dollars, to commence from the date of his appointment, to be paid quarterly, at the Treasury of the United States.

SEC. 4. *And be it further enacted,* That there shall be appointed in the said district a person, learned in the law, to act as attorney for the United States; who shall, in addition to his stated fees, be paid annually by the United States two hundred dollars, as a full compensation for all extra services; the said payment to be made quarterly, at the Treasury of the United States.

SEC. 5. *And be it further enacted,* That a marshal shall be appointed for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as are prescribed and allowed to marshals in other districts; and shall, moreover, be entitled to the sum of two hundred dollars annually, as a compensation for all extra services.

SEC. 6. *And be it further enacted,* That in lieu of the propositions submitted to the Congress of the United States, by an ordinance passed on the first day of November, eighteen hundred and forty-four, by the convention of delegates at Iowa City, assembled for the purpose of making a constitution for the State of Iowa, which are hereby rejected, the following propositions be, and the same are hereby, offered to the legislature of the State of Iowa, for their acceptance or rejection; which if accepted, under the authority conferred on the said legislature by the convention which framed the constitution of the said State, shall be obligatory upon the United States.†

First. That section numbered sixteen in every township of the public lands, and, where such section has been sold or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of schools.

* One act of Congress, approved March 3, 1845, provided for the admission of the States of Iowa and Florida into the Union. The boundaries of Iowa, as fixed by this act, were not acceptable to the people, who refused their assent by a vote (under the provisions of the fourth section) of 7,235 for and 7,656 against.

† These propositions were accepted by an act of the general assembly of the State of Iowa January 15, 1849.

Second. That the seventy-two sections of land set apart and reserved for the use and support of a university, by an act of Congress approved on the twentieth day of July, eighteen hundred and forty, entitled "An act granting two townships of land for the use of the university in the Territory of Iowa," are hereby granted and conveyed to the State, to be appropriated solely to the use and support of such university, in such manner as the legislature may prescribe.

Third. That five entire sections of land, to be selected and located under the direction of the legislature, in legal divisions of not less than one quarter-section, from any of the unappropriated lands belonging to the United States within the said State, are hereby granted to the State for the purpose of completing the public buildings of the said State, or for the erection of public buildings at the seat of government of the said State, as the legislature may determine and direct.

Fourth. That all salt springs within the State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to the said State for its use; the same to be selected by the legislature thereof, within one year after the admission of said State, and the same, when so selected, to be used on such terms, conditions, and regulations as the legislature of the State shall direct: *Provided*, That no salt spring, the right whereof is now vested in any individual or individuals, or which may hereafter be confirmed or adjudged to any individual or individuals, shall, by this section, be granted to said State: *And provided also*, That the general assembly shall never lease or sell the same, at any one time, for a longer period than ten years, without the consent of Congress.

Fifth. That 5 per cent. of the net proceeds of sales of all public lands lying within the said State, which have been or shall be sold by Congress, from and after the admission of said State, after deducting all the expenses incident to the same, shall be appropriated for making public roads and canals within the said State, as the legislature may direct: *Provided*, That the five foregoing propositions herein offered are on the condition that the legislature of the said State, by virtue of the powers conferred upon it by the convention which framed the constitution of the said State, shall provide by an ordinance, irrevocable without the consent of the United States, that the said State shall never interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona-fide* purchasers thereof; and that no tax shall be imposed on lands the property of the United States; and that in no case shall non-resident proprietors be taxed higher than residents; and that the bounty-lands granted, or hereafter to be granted, for military services during the late war, shall, while they continue to be held by the patentees or their heirs, remain exempt from any tax laid by order or under the authority of the State, whether for State, county, township, or any other purpose, for the term of three years from and after the date of the patents, respectively.

APPROVED, March 3, 1845.

ACT DEFINING THE BOUNDARIES OF IOWA—1846.*

[TWENTY-NINTH CONGRESS, FIRST SESSION.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following shall be, and they are hereby, declared to be the boundaries of the State of Iowa, in lieu of those prescribed by the

* This legislation was to meet the wishes of the people of Iowa, who had rejected the boundaries previously defined by Congress in the act approved March 3, 1845.

second section of the act of the third of March, eighteen hundred and forty-five, entitled "An act for the admission of the States of Iowa and Florida into the Union," viz: Beginning in the middle of the main channel of the Mississippi River, at a point due east of the middle of the mouth of the main channel of the Des Moines River; thence up the middle of the main channel of the said Des Moines River to a point on said river where the northern boundary-line of the State of Missouri, as established by the constitution of that State adopted June twelfth, eighteen hundred and twenty, crosses the said middle of the main channel of the said Des Moines River; thence westwardly, along the said northern boundary-line of the State of Missouri as established at the time aforesaid, until an extension of said line intersect the middle of the main channel of the Missouri River; thence up the middle of the main channel of the said Missouri River to a point opposite the middle of the main channel of the Big Sioux River, according to Nicollet's map; thence up the main channel of the said Big Sioux River, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east, along said parallel of forty-three degrees and thirty minutes, until said parallel intersect the middle of the main channel of the Mississippi River; thence down the middle of the main channel of said Mississippi River to the place of beginning.

SEC. 2. *And be it further enacted*, That the question which has heretofore been the subject-matter of controversy and dispute between the State of Missouri and the Territory of Iowa, respecting the precise location of the northern boundary-line of the State of Missouri, shall be, and the same is hereby, referred to the Supreme Court of the United States for adjudication and settlement, in accordance with the act of the legislature of Missouri, approved March twenty-five, eighteen hundred and forty-five, and the memorial of the council and house of representatives of the Territory of Iowa, approved January seventeen, eighteen hundred and forty-six, by which both parties have agreed to "the commencement and speedy determination of such suit as may be necessary to procure a final decision by the Supreme Court of the United States upon the true location of the northern boundary of that State;" and the said Supreme Court is hereby invested with all the power and authority necessary to the performance of the duty imposed by this section.

SEC. 3. *And be it further enacted*, That, until the next census and apportionment shall be made, the State of Iowa shall be entitled to two Representatives in the House of Representatives of the United States.

SEC. 4. *And be it further enacted*, That so much of the act of the third of March, eighteen hundred and forty-five, entitled "An act for the admission of the States of Iowa and Florida into the Union," relating to the said State of Iowa, as is inconsistent with the provisions of this act, be, and the same is hereby, repealed.

APPROVED, August 4, 1846.

CONSTITUTION OF IOWA—1846.*

We, the people of the State of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the State of Iowa, the boundaries whereof shall be as follows:

Beginning in the middle of the main channel of the Mississippi River, at a point due east of the middle of the mouth of the main channel of the Des Moines River; thence up the middle of the main channel of the said Des Moines River to a point on said river where the northern boundary-line of the State of Missouri, as established by the constitution of the State adopted June 12, 1820, crosses the said middle of the main channel of the said Des Moines River; thence westwardly, along the said northern boundary-line of the State of Missouri as established at the time

* This constitution was adopted at a convention which met at Iowa City May 4, 1846, and completed its labors May 19, 1846. It was submitted to the people of Iowa and ratified August 3, 1846, receiving 9,492 votes against 9,039 votes.

aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri River; thence up the middle of the main channel of the said Missouri River to a point opposite the middle of the main channel of the Big Sioux River, according to Nicollet's map; thence up the main channel of the said Big Sioux River, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east, along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi River; thence down the middle of the main channel of the said Mississippi River to the place of beginning.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are, by nature, free and equal, and have certain unalienable rights; among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same whenever the public good may require it.

SEC. 3. The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister or ministry.

SEC. 4. No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take testimony of, any other person not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

SEC. 5. Any citizen of this State who may hereafter be engaged either directly or indirectly in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State.

SEC. 6. All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen or class of citizens privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 7. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libellous was true, and was published with good motives and justifiable ends, the party shall be acquitted.

SEC. 8. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

SEC. 9. The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property, without due process of law.

SEC. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the accusation against him, and to have a copy of the same when demanded; to be confronted with the witnesses against him, to have compulsory process for his own witnesses; and to have the assistance of counsel.

SEC. 11. All offences less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a justice of the peace, or other officer authorized by law, on information under oath, without indictment or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offence, unless on presentment or indictment by a grand jury, except in cases arising in the Army or Navy, or in the militia when in active service, in time of war or public danger.

SEC. 12. No person shall, after acquittal, be tried for the same offence. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great.

SEC. 13. The writ of *habeas corpus* shall not be suspended or refused when application is made as required by law, unless, in case of rebellion or invasion, the public safety may require it.

SEC. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

SEC. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

SEC. 17. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

SEC. 18. Private property shall not be taken for public use without just compensation first being made, or secured, to be paid to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

SEC. 19. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia-fine in time of peace.

SEC. 20. The people have the right freely to assemble together to counsel for the common good; to make known their opinions to their representatives, and to petition for a redress of grievances.

SEC. 21. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

SEC. 22. Foreigners who are, or may hereafter become, residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens.

SEC. 23. There shall be no slavery in this State; nor shall there be involuntary servitude, unless for the punishment of crime.

SEC. 24. No lease or grant of agricultural lands, reserving any rent, or service of any kind, shall be valid for a longer period than twenty years.

SEC. 25. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. Every white male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

SEC. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

SEC. 5. No idiot or insane person, or person convicted of any infamous crime, shall be entitled to the privilege of an elector.

SEC. 6. All elections by the people shall be by ballot.

ARTICLE III.

OF THE DISTRIBUTION OF POWERS.

The powers of the government of Iowa shall be divided into three separate departments, the legislative, the executive, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives; and the style of every law shall be: "*Be it enacted by the general assembly of the State of Iowa.*"

SEC. 2. The sessions of the general assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the governor of the State shall, in the mean time, convene the general assembly by proclamation.

SEC. 3. The members of the house of representatives shall be chosen every second year, by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the presidential election, when the election shall be on the Tuesday next after the first Monday in November; and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

SEC. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, be a free white male citizen of the United States, and have been an inhabitant of this State one year next preceding his election, and at the time of his election have had an actual residence of sixty days in the county or district he may have been chosen to represent.

SEC. 5. Senators shall be chosen for the term of four years, at the same time and place as representatives; they shall be twenty-five years of age, and possess the qualifications of representatives as to residence and citizenship.

SEC. 6. The number of senators shall not be less than one-third, nor more than one-half of the representative body; and shall be so classified by lot that one class, being as nearly one-half as possible, shall be elected every two years. When the number of senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

SEC. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

SEC. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 9. Each house shall sit upon its own adjournment, keep a journal of its proceedings and publish the same, determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offense; and shall have all other powers necessary for a branch of the general assembly of a free and independent State.

SEC. 10. Every member of the general assembly shall have the liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.

SEC. 11. Senators and representatives, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same.

SEC. 12. When vacancies occur in either house, the governor, or the person exercising the functions of governor, shall issue writs of election to fill such vacancies.

SEC. 13. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 15. Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses.

SEC. 16. Every bill which shall have passed the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter the same upon their journal, and proceed to consider it; if, after such reconsideration, it again pass both houses, by yeas and nays, by a majority of two-thirds of the members of each house, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within three days after it shall have been presented to him, (Sunday excepted,) the same shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent such return. Any bill submitted to the governor for his approval during the last three days of a session of the general assembly shall be deposited by him in the office of the secretary of state within thirty days after the adjournment, with his approval if approved by him, and with his objections if he disapproves thereof.

SEC. 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the general assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

SEC. 18. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at every regular session of the general assembly.

SEC. 19. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 20. The governor, judges of the supreme and district courts, and other State officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the general assembly may provide.

SEC. 21. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by elections by the people.

SEC. 22. No person holding any lucrative office under the United States or this State, or any other power, shall be eligible to hold a seat in the general assembly; but offices in the militia, to which there is no annual salary, or the office of justice of the peace, or postmasters, whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

SEC. 23. No person who may hereafter be a collector or holder of public moneys

shall have a seat in either house of the general assembly, or be eligible to hold any office of trust or profit in this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

SEC. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 25. Each member of the first general assembly under this constitution shall receive three dollars per diem while in session; and the further sum of three dollars for every twenty miles' travel in going to and returning from the place where such session is held, by the nearest traveled route; after which they shall receive such compensation as shall be fixed by law; but no general assembly shall have the power to increase the compensation of its own members. And when convened in extra session they shall receive the same mileage and per diem compensation as fixed by law for the regular session, and none other.

SEC. 26. No law of the general assembly, passed at a regular session, of a public nature, shall take effect until the 4th day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the general assembly by which they were passed. If the general assembly shall deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

SEC. 27. No divorce shall be granted by the general assembly.

SEC. 28. No lottery shall be authorized by this State; nor shall the sale of lottery-tickets be allowed.

SEC. 29. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 30. The general assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for State, county, or road purposes;

For laying out, opening, and working roads or highways;

For changing the names of persons;

For the incorporation of cities and towns;

For vacating roads, town-plats, streets, alleys, or public squares;

For locating or changing county seats.

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State; and no law changing the boundary-lines of any county shall have effect until, upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for or against it.

SEC. 31. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered or the contract entered into; nor shall any money be paid on any claim, the subject-matter of which shall not have been provided for by preëxisting laws, and no public money or property shall be appropriated for local or private purposes, unless such appropriation, compensation, or claim be allowed by two-thirds of the members elected to each branch of the general assembly.

SEC. 32. Members of the general assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States, and the constitution of the State of Iowa, and that I will faithfully discharge the duties of senator, [or representative, as the case may be,] according to the best of my ability." And members of the general assembly are hereby empowered to administer to each other the oath or affirmation.

SEC. 33. The general assembly shall, in the years 1859, 1863, 1865, 1867, 1869, and 1875, and every ten years thereafter, cause an enumeration to be made of all the white inhabitants of the State.

SEC. 34. The number of senators shall, at the next session following each period of

making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties according to the number of white inhabitants in each.

SEC. 35. The senate shall not consist of more than fifty members, nor the house of representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the State according to the number of white inhabitants in each, upon ratios to be fixed by law. But no representative district shall contain more than four organized counties, and shall be entitled to one representative. Every county and district, which shall have a number of inhabitants equal to one-half of the ratio fixed by law, shall be entitled to one representative; and any one county containing, in addition to the ratio fixed by law, one-half of that number or more, shall be entitled to one additional representative. No floating district shall hereafter be formed.

SEC. 36. At its first session under this constitution, and at every subsequent regular session, the general assembly shall fix the ratio of representation, and also form into representative districts those counties which will not be entitled singly to a representative.

SEC. 37. When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.

SEC. 38. In all elections by the general assembly, the members thereof shall vote *viva voce*; and the votes shall be entered on the journal.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Iowa.

SEC. 2. The governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly, and shall hold his office two years from the time of his installation, and until his successor is elected and qualified.

SEC. 3. There shall be a lieutenant-governor, who shall hold his office two years, and be elected at the same time with the governor. In voting for governor and lieutenant-governor, the electors shall designate for whom they vote as governor, and for whom as lieutenant-governor. The return of every election for governor and lieutenant-governor shall be sealed up and transmitted to the seat of government of the State, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

SEC. 4. The persons respectively having the highest number of votes for governor and lieutenant-governor shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the general assembly shall by joint vote forthwith proceed to elect one of said persons governor or lieutenant-governor, as the case may be.

SEC. 5. Contested elections for governor or lieutenant-governor shall be determined by the general assembly in such manner as may be prescribed by law.

SEC. 6. No person shall be eligible to the office of governor or lieutenant-governor who shall not have been a citizen of the United States, and a resident of this State for two years next preceding the election, and attained the age of thirty years at the time of said election.

SEC. 7. The governor shall be commander-in-chief of the militia and the army and navy of this State.

SEC. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 9. He shall take care that the laws are faithfully executed.

SEC. 10. When any office shall from any cause become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly, or at the next election by the people.

SEC. 11. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

SEC. 12. He shall communicate by message to the general assembly, at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.

SEC. 13. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next general assembly.

SEC. 14. No person shall, while holding any office under the authority of the United States, or this State, execute the office of governor, except as hereinafter expressly provided.

SEC. 15. The official term of the governor and lieutenant-governor shall commence on the second Monday of January next after their election, and continue for two years, and until their successors are elected and qualified. The lieutenant-governor, while acting as governor, shall receive the same pay as provided for governor; and, while presiding in the senate, shall receive as compensation therefor the same mileage and double the *per diem* pay provided for a senator, and none other.

SEC. 16. The governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the general assembly at its next meeting, when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the general assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reasons therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

SEC. 17. In case of the death, impeachment, resignation, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

SEC. 18. The lieutenant-governor shall be president of the senate, but shall only vote when the senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 19. If the lieutenant-governor, while acting as governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, the president *pro tempore* of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 20. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.

SEC. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 22. The secretary of state, auditor of state, and treasurer of state shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified, and perform such duties as may be required by law.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power shall be vested in a supreme court, district courts, and such other courts, inferior to the supreme court, as the general assembly may from time to time establish.

SEC. 2. The supreme court shall consist of three judges, two of whom shall constitute a quorum to hold court.

SEC. 3. The judges of the supreme court shall be elected by the qualified voters of the State, and shall hold their court at such time and place as the general assembly may prescribe. The supreme judges so elected shall be classified so that one judge shall go out of office every two years, and the judge holding the shortest term of office under such classification shall be chief justice of the court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each judge of the supreme court shall be six years, and until his successor shall have been elected and qualified. The judges of the supreme court shall be ineligible to any other office in the State during the term for which they shall have been elected.

SEC. 4. The supreme court shall have appellate jurisdiction only in all cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the general assembly may by law prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the State.

SEC. 5. The district court shall consist of a single judge, who shall be elected by the qualified voters of the district in which he resides. The judge of the district court shall hold his office for the term of four years, and until his successor shall have been elected and qualified, and shall be ineligible to any other office, except that of supreme judge, during the term for which he was elected.

SEC. 6. The district court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

SEC. 7. The judges of the supreme and district courts shall be conservators of the peace throughout the State.

SEC. 8. The style of all processes shall be, "The State of Iowa," and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 9. The salary of each judge of the supreme court shall be two thousand dollars per annum, and that of each district judge sixteen hundred dollars per annum, until the year 1860; after which time they shall severally receive such compensation as the general assembly may by law prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

SEC. 10. The State shall be divided into eleven judicial districts; and after the year 1860, the general assembly may reorganize the judicial districts, and increase or diminish the number of districts, or the number of judges of the said court, and may increase the number of judges of the supreme court; but such increase or diminution shall not be more than one district, or one judge of either court, at any one session; and no reorganization of the districts, or diminution of the judges, shall have the effect of removing a judge from office. Such reorganization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of the judges, shall take place every four years thereafter, if necessary, and at no other time.

SEC. 11. The judges of the supreme and district courts shall be chosen at the general election; and the term of office of each judge shall commence on the first day of January next after his election.

SEC. 12. The general assembly shall provide by law for the election of an attorney-general by the people, whose term of office shall be two years, and until his successor is elected.

SEC. 13. The qualified electors of each judicial district shall, at the time of election of district judge, elect a district attorney, who shall be a resident of the district for which he is elected, and shall hold his office for the term of four years, and until his successor shall have been elected and qualified.

SEC. 14. It shall be the duty of the general assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of the State.

ARTICLE VI.

MILITIA.

SECTION 1. The militia of this State shall be composed of all able-bodied white male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this State, and shall be armed, equipped, and trained, as the general assembly may provide by law.

SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: *Provided*, That such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

SEC. 3. All commissioned officers of the militia (staff-officers excepted) shall be elected by the persons liable to perform military duty, and shall be commissioned by the governor.

ARTICLE VII.

STATE DEBTS.

SECTION. 1. The credit of the State shall not in any manner be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume or become responsible for the debts or liabilities of any individual, association, or corporation.

SEC. 2. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

SEC. 3. All losses to the permanent, school, or university fund of this State, which shall have been occasioned by the defalcation, mismanagement, or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State, in favor of the respective fund sustaining the loss, upon which not less than 6 per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

SEC. 4. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

SEC. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast

for or against it at such election; and all the money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

SEC. 6. The legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time forbid the contracting of any further debt or liability under such law; but the tax imposed by such law, in proportion to the debt or liability which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

SEC. 7. Every law which imposes, continues, or revives a tax shall distinctly state the tax, and the object to which it is applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE VIII.

CORPORATIONS.

SECTION 1. No corporation shall be created by special laws; but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

SEC. 2. The property of all corporations for pecuniary profit, now existing or hereafter created, shall be subject to taxation, the same as that of individuals.

SEC. 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

SEC. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

SEC. 5. No act of the general assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted separately to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

SEC. 6. Subject to the provisions of the foregoing section, the general assembly may also provide for the establishment of a State bank, with branches.

SEC. 7. If a State bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills, and other issues intended to circulate as money.

SEC. 8. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of state, of all bills or paper-credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State treasurer, in United States stocks, or in interest-paying stocks of States in good credit and standing, to be rated at 10 per cent. below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of said stocks, to the amount of 10 per cent. on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks, and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of any transfer, and to whom.

SEC. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities, accruing while he or she remains such stockholder.

SEC. 10. In case of the insolvency of any banking-institution, the bill-holders shall have a preference over its other creditors.

SEC. 11. The suspension of specie payments by banking-institutions shall never be permitted or sanctioned.

SEC. 12. Subject to the provisions of this article, the general assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the general assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

ARTICLE IX.

EDUCATION AND SCHOOLS.

SECTION 1. The educational interest of the State, to include common schools and other educational institutions, shall be under the management of a board of education, which shall consist of the lieutenant-governor, who shall be the presiding officer of the board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

SEC. 2. No person shall be eligible as a member of said board who shall not have attained the age of twenty-five years, and been one year a citizen of the State.

SEC. 3. One member of said board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years, and until his successor is elected and qualified. After the first election under this constitution, the board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the board shall be chosen every two years thereafter.

SEC. 4. The first session of the board of education shall be held at the seat of government, on the first Monday of December, after their election; after which the general assembly may fix the time and place of meeting.

SEC. 5. The session of the board shall be limited to twenty days, and but one session shall be held in any one year, except on extraordinary occasions, when, upon the recommendation of two-thirds of the board, the governor may order a special session.

SEC. 6. The board of education shall appoint a secretary, who shall be the executive officer of the board, and perform such duties as may be imposed upon him by the board and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the general assembly.

SEC. 7. All rules and regulations made by the board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the board, and when so passed, published, and distributed, they shall have the force and effect of law.

SEC. 8. The board of education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other educational institutions, that are instituted, to receive aid from the school or university fund of this State; but all acts, rules, and regulations of said board may be altered, amended, or repealed by the general assembly; and when so altered, amended, or repealed, they shall not be reenacted by the board of education.

SEC. 9. The governor of the State shall be, *ex officio*, a member of said board.

SEC. 10. The board shall have power to levy taxes, or make appropriations of money. The contingent expenses shall be provided for by the general assembly.

SEC. 11. The State university shall be established at one place without branches at any other place, and the university-fund shall be applied to that institution, and no other.

SEC. 12. The members of the board of education shall provide for the education of all the youths of the State, through a system of common schools. And such school shall be organized and kept in each school-district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school, may be deprived of their portion of the school-fund.

SEC. 13. The members of the board of education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the general assembly.

SEC. 14. A majority of the board shall constitute a quorum for the transaction of business; but no rule, regulation, or law for the regulation and government of common schools or other educational institutions shall pass without the concurrence of a majority of all the members of the board, which shall be expressed by the yeas and nays on the final passage. The style of all the acts of the board shall be, "*Be it enacted by the board of education of the State of Iowa.*"

SEC. 15. At any time after the year 1863, the general assembly shall have power to abolish or reorganize said board of education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper.

SCHOOL-FUNDS AND SCHOOL-LANDS.

SECTION 1. The educational and school funds and lands shall be under the control and management of the general assembly of this State.

SEC. 2. The university lands, and the proceeds thereof, and all moneys belonging to said fund shall be a permanent fund for the sole use of the State university. The interest arising from the same shall be annually appropriated for the support and benefit of said university.

SEC. 3. The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may have been granted by Congress, on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

SEC. 4. The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school-districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the board of education shall from time to time provide.

SEC. 5. The general assembly shall take measures for the protection, improvement, or other disposition of such lands as have been, or may thereafter be, reserved or granted by the United States, or any person or persons, to this State, for the use of a university, and the funds accruing from the rents or sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of the university, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

SEC. 6. The financial agents of school-funds shall be the same that by law receive and control the State and county revenue for other civil purposes, under such regulations as may be provided by law.

SEC. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the age of five and twenty-one years, in such manner as may be provided by the general assembly.

ARTICLE X.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either house of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the general assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the general assembly voting thereon, such amendment or amendments shall become a part of the constitution of this State.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such time as the general assembly may, by law, provide, the question, "Shall there be a convention to revise the constitution and amend the same?" shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the general assembly, at its next session, shall provide by law for the election of delegates to such convention.

ARTICLE XI.

MISCELLANEOUS.

SECTION 1. The jurisdiction of justices of the peace shall extend to all civil cases (except cases in chancery, and cases where the question of title to any real estate may arise) where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

SEC. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area, except the county of Worth, and the counties west of it, on the Minnesota line, may be organized without additional territory.

SEC. 3. No county, or other political or municipal corporation, shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate exceeding 5 per centum on the value of the taxable property within such county or corporation, to be ascertained by the last State and county tax-lists previous to the incurring of such indebtedness.

SEC. 4. The boundaries of the State may be enlarged, with the consent of Congress and the general assembly.

SEC. 5. Every person elected or appointed to any office shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States and of this State, and also an oath of office.

SEC. 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office shall hold until the next general election, and until their successors are elected and qualified.

SEC. 7. The general assembly shall not locate any of the public lands which have been or may be granted by Congress to this State, and the location of which may be given to the general assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted shall not exceed three hundred and twenty acres.

SEC. 8. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk, and the State university at Iowa City, in the county of Johnson.

ARTICLE XII.

SCHEDULE.

SECTION 1. This constitution shall be the supreme law of the State, and any law inconsistent therewith shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

SEC. 2. All laws now in force and not inconsistent with this constitution, shall remain in force until they shall expire or be repealed.

SEC. 3. All indictments, prosecutions, suits, pleas, complaints, process, and other proceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari*, and injunctions shall be carried on in the several courts, in the same manner as now provided by law, and all offences, misdemeanors, and crimes that may have been committed before the taking effect of this constitution, shall be subject to indictment, trial, and punishment, in the same manner as they would have been had not this constitution been made.

SEC. 4. All fines, penalties, or forfeitures due, or to become due or accruing to the State, or to any county therein, or to the school-fund, shall inure to the State, county, or school-fund in the manner prescribed by law.

SEC. 5. All bonds executed to the State, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned.

SEC. 6. The first election under this constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the State shall elect the governor and lieutenant-governor. There shall also be elected at such election the successors of such State senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the house of representatives, who shall be elected in accordance with the act of apportionment enacted by the seventh general assembly of the State.

SEC. 7. The first election for secretary, auditor, and treasurer of state, attorney-general, district judges, members of the board of education, district attorneys, members of Congress, and such State officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven, except the superintendent of public instruction, and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except prosecuting attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight: *Provided*, That the time for which any district judge or any other State or county officer was elected at the April election in 1858 shall not extend beyond the time fixed for filling like offices at the October election.

SEC. 8. The first election for judges of the supreme court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine.

SEC. 9. The first regular session of the general assembly shall be held in the year one thousand eight hundred and fifty-eight, commencing on the second Monday of January of said year.

SEC. 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

SEC. 11. Every person elected by popular vote, by a vote of the general assembly, or who may hold office by executive appointment, which office is continued by this constitution, and every person who shall be so elected or appointed to any such office, before the taking effect of this constitution, (except as in this constitution otherwise provided,) shall continue in office until the term for which such person has been or may be elected or appointed shall expire; but no such person shall continue in office, after taking effect of this constitution, for a longer period than the term of such office in this constitution prescribed.

SEC. 12. The general assembly, at the first session under this constitution, shall district the State into eleven judicial districts, for district-court purposes, and shall also provide for the apportionment of the members of the general assembly, in accordance with the provisions of this constitution.

SEC. 13. The foregoing constitution shall be submitted to the electors of the State at the August election, in the year one thousand eight hundred and fifty-seven, in the several election-districts in this State. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New constitution—Yes;" those against the constitution, "New constitution—No." The election shall be conducted in the same manner as the general elections of the State, and the poll-books shall be returned and canvassed as provided in the twenty-fifth chapter of the code, and abstracts shall be forwarded to the secretary of state, which abstracts shall be canvassed in the manner provided for the canvass of State officers. And if it shall appear that a majority of all the votes cast at such election for and against this constitution are in favor of the same, the governor shall immediately issue his proclamation stating that fact, and such constitution shall be the constitution of the State of Iowa, and shall take effect from and after the publication of said proclamation.

SEC. 14. At the same election that this constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white," from the article on the "right of suffrage," shall be separately submitted to the electors of this State for adoption or rejection, in manner following, viz: A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box. And those given for the adoption of such proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'right of suffrage?' Yes;" and those given against the proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'right of suffrage?' No." And if at said election the number of ballots cast in favor of said proposition shall be equal to a majority of those cast for and against this constitution, then said word "white" shall be stricken from said article and be no part thereof.

SEC. 15. Until otherwise directed by law, the county of Mills shall be in and a part of the sixth judicial district of this State.

ACT ADMITTING THE STATE OF IOWA—1846.

[TWENTY-NINTH CONGRESS, SECOND SESSION.]

Whereas the people of the Territory of Iowa did, on the eighteenth day of May, anno Domini eighteen hundred and forty-six, by a convention of delegates called and assembled for that purpose, form for themselves a constitution and State government, which constitution is republican in its character and features, and said convention has asked admission of the said Territory into the Union as a State, on an equal footing with the original States, in obedience to "An act for the admission of the States of Iowa and Florida into the Union," approved March third, eighteen hundred and forty-five, and "An act to define the boundaries of the State of Iowa, and to repeal so much of the act of the third of March, one thousand eight hundred

and forty-five, as relates to the boundaries of Iowa," which said last act was approved August fourth, anno Domini eighteen hundred and forty six: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Iowa shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatsoever.

SEC. 2. *And be it further enacted,* That all the provisions of "An act supplemental to the act for the admission of the States of Iowa and Florida into the Union," approved March third, eighteen hundred and forty-five, be, and the same are hereby, declared to continue and remain in full force as applicable to the State of Iowa, as hereby admitted and received into the Union.

APPROVED, December 28, 1846.

CONSTITUTION OF IOWA—1857.*

We, the people of the State of Iowa, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of those blessings, do ordain and establish a free and independent government, by the name of the State of Iowa, the boundaries whereof shall be as follows:

Beginning in the middle of the main channel of the Mississippi River, at a point due east of the middle of the mouth of the main channel of the Des Moines River; thence up the middle of the main channel of the said Des Moines River to a point on said river where the northern boundary-line of the State of Missouri, as established by the constitution of that State adopted June 12, 1820, crosses the said middle of the main channel of the said Des Moines River; thence westwardly, along the said northern boundary-line of the State of Missouri, as established at the time aforesaid, until an extension of said line intersects the middle of the main channel of the Missouri River; thence up the middle of the main channel of the said Missouri River to a point opposite the middle of the main channel of the Big Sioux River, according to Nicollet's map; thence up the main channel of the said Big Sioux River, according to said map, until it is intersected by the parallel of forty-three degrees and thirty minutes north latitude; thence east, along said parallel of forty-three degrees and thirty minutes, until said parallel intersects the middle of the main channel of the Mississippi River; thence down the middle of the main channel of the said Mississippi River to the place of beginning.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are, by nature, free and equal, and have certain unalienable rights; among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety and happiness.

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right, at all times, to alter or reform the same whenever the public good may require it.

SEC. 3. The general assembly shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; nor shall any person be compelled

* This constitution was adopted at a convention which met at Iowa City January 19, 1857, and completed its labors March 6, 1857. It was submitted to the people of Iowa and ratified August 3, 1857, receiving 40,311 votes against 38,681 votes.

The word "white" was stricken out of Articles II, III, and IV by an act of the legislatures of 1867 and 1868, submitted to the people and ratified, receiving 105,384 votes against 81,384 votes.

to attend any place of worship, pay tithes, taxes, or other rates for building or repairing places of worship, or the maintenance of any minister or ministry.

SEC. 4. No religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion; and any party to any judicial proceeding shall have the right to use as a witness, or take testimony of, any other person not disqualified on account of interest, who may be cognizant of any fact material to the case; and parties to suits may be witnesses, as provided by law.

SEC. 5. Any citizen of this State who may hereafter be engaged either directly or indirectly in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the constitution and laws of this State.

SEC. 6. All laws of a general nature shall have a uniform operation. The general assembly shall not grant to any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens.

SEC. 7. Every person may speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it appear to the jury that the matter charged as libellous was true, and was published with good motives and justifiable ends, the party shall be acquitted.

SEC. 8. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

SEC. 9. The right of trial by jury shall remain inviolate; but the general assembly may authorize trial by a jury of a less number than twelve men in inferior courts; but no person shall be deprived of life, liberty, or property without due process of law.

SEC. 10. In all criminal prosecutions, and in cases involving the life or liberty of an individual, the accused shall have a right to a speedy and public trial by an impartial jury; to be informed of the accusation against him, and to have a copy of the same when demanded; to be confronted with the witnesses against him, to have compulsory process for his own witnesses, and to have the assistance of counsel.

SEC. 11. All offences less than felony, and in which the punishment does not exceed a fine of one hundred dollars, or imprisonment for thirty days, shall be tried summarily before a justice of the peace, or other officer authorized by law, on information under oath, without indictment or the intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher criminal offence, unless on presentment or indictment by a grand jury, except in cases arising in the Army or Navy, or in the militia when in actual service, in time of war or public danger.

SEC. 12. No person shall, after acquittal, be tried for the same offence. All persons shall, before conviction, be hailable by sufficient sureties, except for capital offences where the proof is evident or the presumption great.

SEC. 13. The writ of *habeas corpus* shall not be suspended or refused when application is made as required by law, unless, in case of rebellion or invasion, the public safety may require it.

SEC. 14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in the time of peace; and in time of war no appropriation for a standing army shall be for a longer time than two years.

SEC. 15. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

SEC. 16. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

SEC. 17. Excessive bail shall not be required, excessive fines shall not be imposed, and cruel and unusual punishments shall not be inflicted.

SEC. 18. Private property shall not be taken for public use without just compensation first being made, or secured, to be paid to the owner thereof, as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantages that may result to said owner on account of the improvement for which it is taken.

SEC. 19. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in case of fraud; and no person shall be imprisoned for a militia fine in time of peace.

SEC. 20. The people have the right freely to assemble together to counsel for the common good, to make known their opinions to their representatives, and to petition for a redress of grievances.

SEC. 21. No bill of attainder, *ex post facto* law, or law impairing the obligation of contracts shall ever be passed.

SEC. 22. Foreigners who are, or may hereafter become residents of this State, shall enjoy the same rights, in respect to the possession, enjoyment, and descent of property, as native-born citizens.

SEC. 23. There shall be no slavery in this State; nor shall there be involuntary servitude, unless for the punishment of crime.

SEC. 24. No lease or grant of agricultural lands, reserving any rent, or service of any kind, shall be valid for a longer period than twenty years.

SEC. 25. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE II.

RIGHT OF SUFFRAGE.

SECTION 1. Every [white*] male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law.

SEC. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

SEC. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this State by being stationed in any garrison, barrack, or military or naval place or station within this State.

SEC. 5. No idiot or insane person, or persons convicted of any infamous crime, shall be entitled to the privilege of an elector.

SEC. 6. All elections by the people shall be by ballot.

ARTICLE III.

OF THE DISTRIBUTION OF POWERS.

The powers of the government of Iowa shall be divided into three separate departments, the legislative, the executive, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

* Stricken out in 1868.

LEGISLATIVE DEPARTMENT

SECTION 1. The legislative authority of this State shall be vested in a general assembly, which shall consist of a senate and house of representatives; and the style of every law shall be, "*Be it enacted by the general assembly of the State of Iowa.*"

SEC. 2. The sessions of the general assembly shall be biennial, and shall commence on the second Monday in January next ensuing the election of its members; unless the governor of the State shall, in the mean time, convene the general assembly by proclamation.

SEC. 3. The members of the house of representatives shall be chosen every second year by the qualified electors of their respective districts, on the second Tuesday in October, except the years of the presidential election, when the election shall be on the Tuesday next after the first Monday in November; and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

SEC. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, be a free [white*] male citizen of the United States, and shall have been an inhabitant of this State one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county or district he may have been chosen to represent.

SEC. 5. Senators shall be chosen for the term of four years, at the same time and place as representatives; they shall be twenty-five years of age, and possess the qualifications of representatives as to residence and citizenship.

SEC. 6. The number of senators shall not be less than one-third, nor more than one-half of the representative body; and shall be so classified by lot that one class, being as nearly one-half as possible, shall be elected every two years. When the number of senators is increased, they shall be annexed by lot to one or the other of the two classes, so as to keep them as nearly equal in numbers as practicable.

SEC. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

SEC. 8. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each house may provide.

SEC. 9. Each house shall sit upon its own adjournment, keep a journal of its proceedings, and publish the same; determine its rules of proceedings, punish members for disorderly behavior, and, with the consent of two-thirds, expel a member, but not a second time for the same offence; and shall have all other powers necessary for a branch of the general assembly of a free and independent State.

SEC. 10. Every member of the general assembly shall have the liberty to dissent from or protest against any act or resolution which he may think injurious to the public or an individual, and have the reasons for his dissent entered on the journals; and the yeas and nays of the members of either house, on any question, shall, at the desire of any two members present, be entered on the journals.

SEC. 11. Senators and representatives, in all cases except treason, felony, or breach of the peace, shall be privileged from arrest during the session of the general assembly, and in going to and returning from the same.

SEC. 12. When vacancies occur in either house, the governor, or the person exercising the functions of governor, shall issue writs of election to fill such vacancies.

SEC. 13. The doors of each house shall be open, except on such occasions as in the opinion of the house may require secrecy.

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 15. Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill having passed both houses shall be signed by the speaker and president of their respective houses.

* Stricken out in 1868.

SEC. 16. Every bill which shall have passed the general assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, which shall enter the same upon their journal, and proceed to consider it; if, after such reconsideration, it again pass both houses by ayes and nays, by a majority of two-thirds of the members of each house, it shall become a law, notwithstanding the governor's objections. If any bill shall not be returned within three days after it shall have been presented to him, (Sunday excepted,) the same shall be a law in like manner as if he had signed it, unless the general assembly, by adjournment, prevent such return. Any bill submitted to the governor for his approval during the last three days of a session of the general assembly shall be deposited by him in the office of the secretary of state within thirty days after the adjournment, with his approval if approved by him, and with his objections if he disapproves thereof.

SEC. 17. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the general assembly, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

SEC. 18. An accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws at every regular session of the general assembly.

SEC. 19. The house of representatives shall have the sole power of impeachment, and all impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation; and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 20. The governor, judges of the supreme and district courts, and other State officers, shall be liable to impeachment for any misdemeanor or malfeasance in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any office of honor, trust, or profit under this State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanors and malfeasance in office, in such manner as the general assembly may provide.

SEC. 21. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office of profit under this State, which shall have been created, or the emoluments of which shall have been increased during such term, except such offices as may be filled by elections by the people.

SEC. 22. No person holding any lucrative office under the United States or this State, or any other power, shall be eligible to hold a seat in the general assembly; but offices in the militia, to which there is no annual salary, or the office of justice of the peace, or postmaster, whose compensation does not exceed one hundred dollars per annum, or notary public, shall not be deemed lucrative.

SEC. 23. No person who may hereafter be a collector or holder of public moneys shall have a seat in either house of the general assembly, or be eligible to hold any office of trust or profit in this State, until he shall have accounted for and paid into the treasury all sums for which he may be liable.

SEC. 24. No money shall be drawn from the treasury but in consequence of appropriations made by law.

SEC. 25. Each member of the first general assembly under this constitution shall receive three dollars per diem while in session; and the further sum of three dollars for every twenty miles' travel in going to and returning from the place where such session is held, by the nearest traveled route; after which they shall receive such compensation as shall be fixed by law; but no general assembly shall have the power to increase the compensation of its own members. And when convened in extra session they shall receive the same mileage and per diem compensation as fixed by law for the regular session, and none other.

SEC. 26. No law of the general assembly, passed at a regular session, of a public nature, shall take effect until the 4th day of July next after the passage thereof. Laws passed at a special session shall take effect ninety days after the adjournment of the general assembly by which they were passed. If the general assembly shall

deem any law of immediate importance, they may provide that the same shall take effect by publication in newspapers in the State.

SEC. 27. No divorce shall be granted by the general assembly.

SEC. 28. No lottery shall be authorized by this State; nor shall the sale of lottery-tickets be allowed.

SEC. 29. Every act shall embrace but one subject, and matters properly connected therewith; which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

SEC. 30. The general assembly shall not pass local or special laws in the following cases:

For the assessment and collection of taxes for State, county, or road purposes;

For laying out, opening, and working roads or highways;

For changing the names of persons;

For the incorporation of cities and towns;

For vacating roads, town-plats, streets, alleys, or public squares;

For locating or changing county seats.

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State; and no law changing the boundary-lines of any county shall have effect until, upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for or against it.

SEC. 31. No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid on any claim, the subject-matter of which shall not have been provided for by preëxisting laws, and no public money or property shall be appropriated for local or private purposes, unless such appropriation, compensation, or claim be allowed by two-thirds of the members elected to each branch of the general assembly.

SEC. 32. Members of the general assembly shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States, and the constitution of the State of Iowa, and that I will faithfully discharge the duties of senator [or representative, as the case may be] according to the best of my ability." And members of the general assembly are hereby empowered to administer to each other the oath or affirmation.

SEC. 33. The general assembly shall, in the years 1859, 1863, 1865, 1867, 1869, and 1875, and every ten years thereafter, cause an enumeration to be made of all the white inhabitants of the State.

SEC. 34. The number of senators shall, at the next session following each period of making such enumeration, and the next session following each United States census, be fixed by law, and apportioned among the several counties according to the number of white inhabitants in each.

SEC. 35. The senate shall not consist of more than fifty members, nor the house of representatives of more than one hundred; and they shall be apportioned among the several counties and representative districts of the State according to the number of white inhabitants in each, upon ratios to be fixed by law. But no representative district shall contain more than four organized counties, and shall be entitled to one representative. Every county and district which shall have a number of inhabitants equal to one-half of the ratio fixed by law shall be entitled to one representative; and any one county containing in addition to the ratio fixed by law one-half of that number or more shall be entitled to one additional representative. No floating district shall hereafter be formed.

SEC. 36. At its first session under this constitution, and at every subsequent regular session, the general assembly shall fix the ratio of representation, and also form into representative districts those counties which will not be entitled singly to a representative.

SEC. 37. When a congressional, senatorial, or representative district shall be composed of two or more counties, it shall not be entirely separated by any county belonging to another district; and no county shall be divided in forming a congressional, senatorial, or representative district.

SEC. 38. In all elections by the general assembly, the members thereof shall vote *viva voce* ; and the votes shall be entered on the journal.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the governor of the State of Iowa.

SEC. 2. The governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly, and shall hold his office two years from the time of his installation, and until his successor is elected and qualified.

SEC. 3. There shall be a lieutenant-governor, who shall hold his office two years, and be elected at the same time with the governor. In voting for governor and lieutenant-governor, the electors shall designate for whom they vote as governor, and for whom as lieutenant-governor. The return of every election for governor and lieutenant-governor shall be sealed up and transmitted to the seat of government of the State, directed to the speaker of the house of representatives, who shall open and publish them in the presence of both houses of the general assembly.

SEC. 4. The persons respectively having the highest number of votes for governor and lieutenant-governor shall be declared duly elected; but in case two or more persons shall have an equal and the highest number of votes for either office, the general assembly shall by joint vote forthwith proceed to elect one of said persons governor, or lieutenant-governor, as the case may be.

SEC. 5. Contested elections for governor or lieutenant-governor shall be determined by the general assembly in such manner as may be prescribed by law.

SEC. 6. No person shall be eligible to the office of governor or lieutenant-governor who shall not have been a citizen of the United States and a resident of this State for two years next preceding the election, and attained the age of thirty years at the time of said election.

SEC. 7. The governor shall be commander-in-chief of the militia and the army and navy of this State.

SEC. 8. He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.

SEC. 9. He shall take care that the laws are faithfully executed.

SEC. 10. When any office shall from any cause become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly or at the next election by the people.

SEC. 11. He may, on extraordinary occasions, convene the general assembly, by proclamation, and shall state to both houses, when assembled, the purpose for which they shall have been convened.

SEC. 12. He shall communicate by message to the general assembly, at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.

SEC. 13. In case of disagreement between the two houses with respect to the time of adjournment, the governor shall have power to adjourn the general assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next general assembly.

SEC. 14. No person shall, while holding any office under the authority of the United States or this State, execute the office of governor, except as hereinafter expressly provided.

SEC. 15. The official term of the governor and lieutenant-governor shall commence on the second Monday of January next after their election, and continue for two years, and until their successors are elected and qualified. The lieutenant-governor, while acting as governor, shall receive the same pay as provided for governor; and while presiding in the senate shall receive, as compensation therefor, the same mileage and double the per-diem pay provided for a senator, and none other.

SEC. 16. The governor shall have power to grant reprieves, commutations, and pardons after conviction, for all offences except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the general assembly at its next meeting, when the general assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the general assembly at its next meeting each case of reprieve, commutation, or pardon granted, and the reasons therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made and the several amounts remitted.

SEC. 17. In case of the death, impeachment, resignation, removal from office, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant-governor.

SEC. 18. The lieutenant-governor shall be president of the senate, but shall only vote when the senate is equally divided; and in case of his absence or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 19. If the lieutenant-governor, while acting as governor, shall be impeached, displaced, resign, or die, or otherwise become incapable of performing the duties of the office, the president *pro tempore* of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 20. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called the Great Seal of the State of Iowa.

SEC. 21. All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the great seal of the State, signed by the governor, and countersigned by the secretary of state.

SEC. 22. The secretary of state, auditor of state, and treasurer of state shall be elected by the qualified electors, who shall continue in office two years, and until their successors are elected and qualified; and perform such duties as may be required by law.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION. 1. The judicial power shall be vested in a supreme court, district courts, and such other courts, inferior to the supreme court, as the general assembly may from time to time establish.

SEC. 2. The supreme court shall consist of three judges, two of whom shall constitute a quorum to hold court.

SEC. 3. The judges of the supreme court shall be elected by the qualified voters of the State, and shall hold their court at such time and place as the general assembly may prescribe. The supreme judges so elected shall be classified so that one judge shall go out of office every two years; and the judge holding the shortest term of office under such classification shall be chief justice of the court during his term, and so on in rotation. After the expiration of their terms of office, under such classification, the term of each judge of the supreme court shall be six years, and until his successor

shall have been elected and qualified. The judges of the supreme court shall be ineligible to any other office in the State during the term for which they shall have been elected.

SEC. 4. The supreme court shall have appellate jurisdiction only in all cases in chancery, and shall constitute a court for the correction of errors at law, under such restrictions as the general assembly may, by law, prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and exercise a supervisory control over all inferior judicial tribunals throughout the State.

SEC. 5. The district court shall consist of a single judge, who shall be elected by the qualified voters of the district in which he resides. The judge of the district court shall hold his office for the term of four years, and until his successor shall have been elected and qualified; and shall be ineligible to any other office, except that of supreme judge, during the term for which he was elected.

SEC. 6. The district court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

SEC. 7. The judges of the supreme and district courts shall be conservators of the peace throughout the same.

SEC. 8. The style of all process shall be, "The State of Iowa;" and all prosecutions shall be conducted in the name and by the authority of the same.

SEC. 9. The salary of each judge of the supreme court shall be two thousand dollars per annum; and that of each district judge, sixteen hundred dollars per annum, until the year 1860; after which time they shall severally receive such compensation as the general assembly may by law prescribe; which compensation shall not be increased or diminished during the term for which they shall have been elected.

SEC. 10. The State shall be divided into eleven judicial districts; and, after the year 1860, the general assembly may reorganize the judicial districts, and increase or diminish the number of districts, or the number of judges of the said court, and may increase the number of judges of the supreme court; but such increase or diminution shall not be more than one district, or one judge of either court, at any one session; and no reorganization of the districts, or diminution of the judges, shall have the effect of removing a judge from office. Such reorganization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of the judges shall take place every four years thereafter, if necessary, and at no other time.

SEC. 11. The judges of the supreme and district courts shall be chosen at the general election; and the term of office of each judge shall commence on the first day of January next after his election.

SEC. 12. The general assembly shall provide, by law, for the election of an attorney-general by the people, whose term of office shall be two years, and until his successor is elected.

SEC. 13. The qualified electors of each judicial district shall, at the time of election of district judge, elect a district attorney, who shall be a resident of the district for which he is elected, and shall hold his office for the term of four years, and until his successor shall have been elected and qualified.

SEC. 14. It shall be the duty of the general assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the courts of the State.

ARTICLE VI.

MILITIA.

SECTION 1. The militia of this State shall be composed of all able-bodied [white*] male citizens between the ages of eighteen and forty-five years, except such as are or may hereafter be exempt by the laws of the United States, or of this State, and shall be armed, equipped, and trained as the general assembly may provide by law.

* Stricken out in 1868.

SEC. 2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace: *Provided*, That such person or persons shall pay an equivalent for such exemption in the same manner as other citizens.

SEC. 3. All commissioned officers of the militia (staff-officers excepted) shall be elected by the persons liable to perform military duty, and shall be commissioned by the governor.

ARTICLE VII.

STATE DEBTS.

SECTION 1. The credit of the State shall not, in any manner, be given or loaned to, or in aid of, any individual, association, or corporation; and the State shall never assume or become responsible for the debts or liabilities of any individual, association, or corporation.

SEC. 2. The State may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed the sum of two hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

SEC. 3. All losses to the permanent, school, or university fund of this State, which shall have been occasioned by the defalcation, mismanagement, or fraud of the agents or officers controlling and managing the same, shall be audited by the proper authorities of the State. The amount so audited shall be a permanent funded debt against the State in favor of the respective fund sustaining the loss, upon which not less than 6 per cent. annual interest shall be paid. The amount of liability so created shall not be counted as a part of the indebtedness authorized by the second section of this article.

SEC. 4. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the debts so contracted shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

SEC. 5. Except the debts hereinbefore specified in this article, no debt shall be hereafter contracted by or on behalf of this State, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for or against it at such election; and all the money raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the State, for three months preceding the election at which it is submitted to the people.

SEC. 6. The legislature may at any time after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time forbid the contracting of any further debt or liability under such law; but the tax imposed by such law, in proportion to the debt or liability which may have been contracted in pursuance thereof, shall remain in force and be irrepealable, and be annually collected, until the principal and interest are fully paid.

SEC. 7. Every law which imposes, continues, or revives a tax, shall distinctly state the tax and the object to which it is applied; and it shall not be sufficient to refer to any other law to fix such tax or object.

ARTICLE VIII.

CORPORATIONS.

SECTION 1. No corporation shall be created by special laws; but the general assembly shall provide, by general laws, for the organization of all corporations hereafter to be created, except as hereinafter provided.

SEC. 2. The property of all corporations for pecuniary profit now existing, or hereafter created, shall be subject to taxation the same as that of individuals.

SEC. 3. The State shall not become a stockholder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

SEC. 4. No political or municipal corporation shall become a stockholder in any banking corporation, directly or indirectly.

SEC. 5. No act of the general assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto, shall take effect, or in any manner be in force, until the same shall have been submitted separately to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

SEC. 6. Subject to the provisions of the foregoing section, the general assembly may also provide for the establishment of a State bank with branches.

SEC. 7. If a State bank be established, it shall be founded on an actual specie basis, and the branches shall be mutually responsible for each other's liabilities upon all notes, bills, and other issues intended to circulate as money.

SEC. 8. If a general banking-law shall be enacted, it shall provide for the registry and countersigning, by an officer of state, of all bills or paper-credit designed to circulate as money, and require security to the full amount thereof, to be deposited with the State treasurer, in United States stock, or in interest-paying stocks of States in good credit and standing, to be rated at 10 per cent. below their average value in the city of New York, for the thirty days next preceding their deposit; and in case of a depreciation of any portion of said stocks, to the amount of 10 per cent. on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by depositing additional stocks, and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, and the time of any transfer, and to whom.

SEC. 9. Every stockholder in a banking corporation or institution shall be individually responsible and liable to its creditors, over and above the amount of stock by him or her held, to an amount equal to his or her respective shares so held, for all its liabilities accruing while he or she remains such stockholder.

SEC. 10. In case of the insolvency of any banking institution, the bill-holders shall have a preference over its other creditors.

SEC. 11. The suspension of specie payments by banking institutions shall never be permitted or sanctioned.

SEC. 12. Subject to the provisions of this article, the general assembly shall have power to amend or repeal all laws for the organization or creation of corporations, or granting of special or exclusive privileges or immunities, by a vote of two-thirds of each branch of the general assembly; and no exclusive privileges, except as in this article provided, shall ever be granted.

ARTICLE IX.

EDUCATION AND SCHOOLS.

SECTION 1. The educational interest of the State, to include common schools and other educational institutions, shall be under the management of a board of education, which shall consist of the lieutenant-governor, who shall be the presiding officer of the board, and have the casting vote in case of a tie, and one member to be elected from each judicial district in the State.

SEC. 2. No person shall be eligible as a member of said board who shall not have attained the age of twenty-five years and been one year a citizen of the State.

SEC. 3. One member of said board shall be chosen by the qualified electors of each district, and shall hold the office for the term of four years and until his successor is elected and qualified. After the first election under this constitution, the board shall be divided, as nearly as practicable, into two equal classes, and the seats of the first class shall be vacated after the expiration of two years; and one-half of the board shall be chosen every two years thereafter.

SEC. 4. The first session of the board of education shall be held at the seat of government, on the first Monday of December, after their election; after which the general assembly may fix the time and place of meeting.

SEC. 5. The session of the board shall be limited to twenty days, and but one session shall be held in any one year, except on extraordinary occasions, when, upon the recommendation of two-thirds of the board, the governor may order a special session.

SEC. 6. The board of education shall appoint a secretary, who shall be the executive officer of the board, and perform such duties as may be imposed upon him by the board, and the laws of the State. They shall keep a journal of their proceedings, which shall be published and distributed in the same manner as the journals of the general assembly.

SEC. 7. All rules and regulations made by the board shall be published and distributed to the several counties, townships, and school districts, as may be provided for by the board, and when so passed, published, and distributed, they shall have the force and effect of law.

SEC. 8. The board of education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools, and other educational institutions, that are instituted, to receive aid from the school or university fund of this State; but all acts, rules, and regulations of said board may be altered, amended, or repealed by the general assembly; and when so altered, amended, or repealed, they shall not be reenacted by the board of education.

SEC. 9. The governor of the State shall be, *ex officio*, a member of said board.

SEC. 10. The board shall have power to levy taxes, or make appropriations of money. The contingent expenses shall be provided for by the general assembly.

SEC. 11. The State University shall be established at one place, without branches at any other place, and the university-fund shall be applied to that institution, and no other.

SEC. 12. The members of the board of education shall provide for the education of all the youths of the State, through a system of common schools. And such schools shall be organized and kept in each school-district at least three months in each year. Any district failing, for two consecutive years, to organize and keep up a school may be deprived of their portion of the school-fund.

SEC. 13. The members of the board of education shall each receive the same per diem during the time of their session, and mileage going to and returning therefrom, as members of the general assembly.

SEC. 14. The majority of the board shall constitute a quorum for the transaction of business; but no rule, regulation, or law for the regulation and government of common schools or other educational institutions shall pass without the concurrence of a majority of all the members of the board, which shall be expressed by the yeas and nays on the final passage. The style of all the acts of the board shall be, "*Be it enacted by the board of education of the State of Iowa.*"

SEC. 15. At any time after the year of 1863, the general assembly shall have power to abolish or reorganize said board of education, and provide for the educational interest of the State in any other manner that to them shall seem best and proper.

SCHOOL-FUNDS AND SCHOOL-LANDS.

SECTION 1. The educational and school funds and lands shall be under the control and management of the general assembly of this State.

SEC. 2. The university-lands, and the proceeds thereof, and all moneys belonging to said fund, shall be a permanent fund for the sole use of the State University. The interest arising from the same shall be annually appropriated for the support and benefit of said university.

SEC. 3. The general assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral, and agricultural improvement. The proceeds of all lands that have been, or hereafter may be, granted by the United States to this State for the support of schools, which shall hereafter be sold or disposed of, and the five hundred thousand acres of land granted to the new States, under an act of Congress, distributing the proceeds of the public lands among the several States of the Union, approved in the year of our Lord one thousand eight hundred and forty-one, and all estates of deceased persons who may have died without leaving a will or heir, and also such per cent. as may have been granted by Congress, on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the general assembly may provide, shall be inviolably appropriated to the support of common schools throughout the State.

SEC. 4. The money which may have been or shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid, or fine collected, among the several school-districts of said counties, in proportion to the number of youths subject to enumeration in such districts, to the support of common schools, or the establishment of libraries, as the board of education shall from time to time provide.

SEC. 5. The general assembly shall take measures for the protection, improvement, or other disposition of such lands as have been or may thereafter be reserved or granted by the United States, or any person or persons, to this State, for the use of a university, and the funds accruing from the rents or sale of such lands, or from any other source, for the purpose aforesaid, shall be and remain a permanent fund, the interest of which shall be applied to the support of the university, for the promotion of literature, the arts and sciences, as may be authorized by the terms of such grant. And it shall be the duty of the general assembly, as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said university.

SEC. 6. The financial agents of school-funds shall be the same that by law receive and control the State and county revenue for other civil purposes, under such regulations as may be provided by law.

SEC. 7. The money subject to the support and maintenance of common schools shall be distributed to the districts in proportion to the number of youths, between the age of five and twenty-one years, in such manner as may be provided by the general assembly.

ARTICLE X.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either house of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the general assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the general assembly voting thereon, such amendment or amendments shall become a part of the constitution of this State.

SEC. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

SEC. 3. At the general election to be held in the year one thousand eight hundred and seventy, and in each tenth year thereafter, and also at such time as the general assembly may, by law, provide, the question, "Shall there be a convention to revise the constitution and amend the same?" shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified, voting at such election for and against such proposition, shall decide in favor of a convention for such purpose, the general assembly, at its next session, shall provide by law for the election of delegates to such convention.

ARTICLE XI.

MISCELLANEOUS.

SECTION 1. The jurisdiction of justices of the peace shall extend to all civil cases (except cases in chancery, and cases where the question of title to any real estate may arise) where the amount in controversy does not exceed one hundred dollars, and by the consent of parties may be extended to any amount not exceeding three hundred dollars.

SEC. 2. No new county shall be hereafter created containing less than four hundred and thirty-two square miles; nor shall the territory of any organized county be reduced below that area, except the county of Worth, and the counties west of it, on the Minnesota line, may be organized without additional territory.

SEC. 3. No county, or other political or municipal corporation, shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate exceeding 5 per centum on the value of the taxable property within such county or corporation—to be ascertained by the last State and county tax-lists, previous to the incurring of such indebtedness.

SEC. 4. The boundaries of the State may be enlarged, with the consent of Congress and the general assembly.

SEC. 5. Every person elected or appointed to any office shall, before entering upon the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

SEC. 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office shall hold until the next general election, and until their successors are elected and qualified.

SEC. 7. The general assembly shall not locate any of the public lands which have been or may be granted by Congress to this State, and the location of which may be given to the general assembly, upon lands actually settled, without the consent of the occupant. The extent of the claim of such occupant so exempted shall not exceed three hundred and twenty acres.

SEC. 8. The seat of government is hereby permanently established, as now fixed by law, at the city of Des Moines, in the county of Polk, and the State University at Iowa City, in the county of Johnson.

ARTICLE XII.

SCHEDULE.

SECTION 1. This constitution shall be the supreme law of the State, and any law inconsistent therewith shall be void. The general assembly shall pass all laws necessary to carry this constitution into effect.

SEC. 2. All laws now in force, and not inconsistent with this constitution, shall remain in force until they shall expire or be repealed.

SEC. 3. All indictments, prosecutions, suits, pleas, complaints, process, and other pro-

ceedings pending in any of the courts, shall be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari*, and injunctions shall be carried on in the several courts, in the same manner as now provided by law, and all offences, misdemeanors, and crimes that may have been committed before the taking effect of this constitution, shall be subject to indictment, trial, and punishment, in the same manner as they would have been had not this constitution been made.

SEC. 4. All fines, penalties, or forfeitures due, or to become due or accruing to the State, or to any county therein, or to the school-fund, shall inure to the State, county, or school-fund, in the manner prescribed by law.

SEC. 5. All bonds executed to the State, or to any officer in his official capacity, shall remain in force and inure to the use of those concerned.

SEC. 6. The first election under this constitution shall be held on the second Tuesday in October, in the year one thousand eight hundred and fifty-seven, at which time the electors of the State shall elect the governor and lieutenant-governor. There shall also be elected at such election the successors of such State senators as were elected at the August election, in the year one thousand eight hundred and fifty-four, and members of the house of representatives, who shall be elected in accordance with the act of apportionment, enacted by the seventh general assembly of the State.

SEC. 7. The first election for secretary, auditor, and treasurer of state, attorney-general, district judges, members of the board of education, district attorneys, members of Congress, and such State officers as shall be elected at the April election, in the year one thousand eight hundred and fifty-seven, except the superintendent of public instruction, and such county officers as were elected at the August election, in the year one thousand eight hundred and fifty-six, except prosecuting attorneys, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-eight: *Provided*, That the time for which any district judge or any other State or county officer was elected at the April election in 1858 shall not extend beyond the time fixed for filling like offices at the October election.

SEC. 8. The first election for judges of the supreme court, and such county officers as shall be elected at the August election, in the year one thousand eight hundred and fifty-seven, shall be held on the second Tuesday of October, in the year one thousand eight hundred and fifty-nine.

SEC. 9. The first regular session of the general assembly shall be held in the year one thousand eight hundred and fifty-eight, commencing on the second Monday of January of said year.

SEC. 10. Senators elected at the August election, in the year one thousand eight hundred and fifty-six, shall continue in office until the second Tuesday of October, in the year one thousand eight hundred and fifty-nine, at which time their successors shall be elected as may be prescribed by law.

SEC. 11. Every person elected by popular vote, by a vote of the general assembly, or who may hold office by executive appointment, which office is continued by this constitution, and every person who shall be so elected or appointed to any such office, before the taking effect of this constitution, (except as in this constitution otherwise provided,) shall continue in office until the term for which such person has been or may be elected or appointed shall expire; but no such person shall continue in office, after taking effect of this constitution, for a longer period than the term of such office in this constitution prescribed.

SEC. 12. The general assembly, at the first session under this constitution, shall district the State into eleven judicial districts, for district-court purposes, and shall also provide for the apportionment of the members of the general assembly, in accordance with the provisions of this constitution.

SEC. 13. The foregoing constitution shall be submitted to the electors of the State at the August election, in the year one thousand eight hundred and fifty-seven, in the several election-districts in this State. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New constitution—Yes;" those against the constitution, "New constitution—No." The election shall be conducted in the same manner as the general elections of the State, and the poll-books

shall be returned and canvassed as provided in the twenty-fifth chapter of the code, and abstracts shall be forwarded to the secretary of state, which abstracts shall be canvassed in the manner provided for the canvass of State officers. And if it shall appear that a majority of all the votes cast at such election, for and against this constitution, are in favor of the same, the governor shall immediately issue his proclamation stating that fact, and such constitution shall be the constitution of the State of Iowa, and shall take effect from and after the publication of said proclamation.

SEC. 14. At the same election that this constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white," from the article on the "Right of suffrage," shall be separately submitted to the electors of this State for adoption or rejection, in manner following, viz: A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box. And those given for the adoption of such proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'Right of suffrage?' Yes." And those given against the proposition shall have the words, "Shall the word 'white' be stricken out of the article on the 'Right of suffrage?' No." And if at said election the number of ballots cast in favor of said proposition shall be equal to a majority of those cast for and against this constitution, then said word "white" shall be stricken from said article, and be no part thereof.

SEC. 15. Until otherwise directed by law, the county of Mills shall be in and a part of the sixth judicial district of this State.

Done in convention at Iowa City this fifth day of March, in the year of our Lord 1857, and of the independence of the United States the eighty-first.

FRANCIS SPRINGER, *President*.

Attest:

THOMAS J. SAUNDERS, *Secretary*.
C. N. BATES, *Assistant Secretary*.

KANSAS.

TREATY FOR THE CESSION WITH FRANCE—1803.

[See "Louisiana," pages 687-690.]

THE DISTRICT OF LOUISIANA—1804.

[See "Louisiana," pages 691-695.]

THE TERRITORY OF LOUISIANA—1805.

[See "Louisiana," pages 697-698.]

THE TERRITORY OF MISSOURI—1812.*

[See "Missouri," pages 1097-1101.]

TREATY OF CESSION WITH SPAIN—1848.

[See "California," pages 308-312.]

JOINT RESOLUTION ADMITTING THE STATE OF TEXAS—1845.†

[See "Texas," pages 1764-1765.]

* After the admission of the State of Missouri, August 10, 1821, that part of the Territory of Missouri now in the State of Kansas had no distinct government.

† After the admission of the State of Texas, July 4, 1845, that part of the present State of Kansas south of the Arkansas River and west of 100° west longitude from Greenwich had no distinct government.

THE TERRITORIAL GOVERNMENT OF KANSAS—1854.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit, beginning at a point in the Missouri River, where the fortieth parallel of north latitude crosses the same; thence west on said parallel to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence on said summit northward to the forty-ninth parallel of north latitude; thence east on said parallel to the western boundary of the Territory of Minnesota; thence southward on said boundary to the Missouri River; thence down the main channel of said river to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Nebraska; and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Nebraska, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Nebraska, or to affect the authority of the Government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the Government to make if this act had never passed.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Nebraska shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, and shall be commander-in-chief of the militia thereof. He may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a secretary of said Territory who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, to be deposited in the libraries of Congress; and in case of the death, removal, resignation, or absence of the governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during

such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of twenty-six members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district or county or counties for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons and in such mode as the governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house or representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the Army or Navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory, by reason of being in service therein.

SEC. 6. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering

with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said Territory shall, before it become a law, be presented to the governor of the Territory; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly, by adjournment, prevents its return, in which case it shall not be a law.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Nebraska. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly; and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the legislative assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years, and until their successor shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed and may be taken to the Supreme

Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves the said writs of error or appeals shall be allowed and decided by the said supreme court without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also be allowed to the Supreme Court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of *habeas corpus*, involving the question of personal freedom: *Provided*, That nothing herein contained shall be construed to apply to or affect the provisions to the "Act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the "Act to amend and supplementary to the aforesaid act," approved September eighteen, eighteen hundred and fifty; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws, and writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of Utah Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That the provisions of an act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelve, seventeen hundred and ninety-three, and the provisions of the act entitled "An act to amend and supplementary to the aforesaid act," approved September eighteen, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of said Territory of Nebraska.

SEC. 11. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Utah. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulation and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 12. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice, or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificate shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and

associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of two thousand five hundred dollars. The chief justice and associate justices shall each receive an annual salary of two thousand dollars. The secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually traveled route; and an additional allowance of three dollars shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislature annually, unless, on an extraordinary occasion, the governor shall think proper to call the legislature together. There shall be appropriated, annually, the usual sum, to be expended by the governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the executive department; and there shall also be appropriated, annually, a sufficient sum to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the governor and secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said Secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 13. *And be it further enacted*, That the legislative assembly of the Territory of Nebraska shall hold its first session at such time and place in said Territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said governor and legislative assembly.

SEC. 14. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives, but the Delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner as the governor shall appoint and direct; and at all subsequent elections the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Nebraska as elsewhere

within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

SEC. 15. *And be it further enacted*, That there shall hereafter be appropriated, as has been customary for the territorial governments, a sufficient amount to be expended under the direction of the said governor of the Territory of Nebraska, not exceeding the sums heretofore appropriated for similar objects, for the erection of suitable public buildings at the seat of government, and for the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

SEC. 16. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 17. *And be it further enacted*, That, until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation, to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

SEC. 18. *And be it further enacted*, That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Nebraska, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security, at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 19. *And be it further enacted*, That all that part of the Territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit, beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said parallel to latitude thirty-eight; thence following said boundary westward to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Kansas; and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Ter-

ritory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Kansas, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Kansas, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the Government to make if this act had never passed.

SEC. 20. *And be it further enacted*, That the executive power and authority in and over said Territory of Kansas shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The governor shall reside within said Territory, and shall be commander-in-chief of the militia thereof. He may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 21. *And be it further enacted*, That there shall be a secretary of said Territory, who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, to be deposited in the libraries of Congress; and, in case of the death, removal, resignation, or absence of the governor from the Territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

SEC. 22. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of thirteen members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of twenty-six members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, in proportion to the increase of qualified voters: *Provided*, That the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district or county or counties for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory, to be taken by such persons and in such mode as the governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places,

and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election; and the person thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

SEC. 23. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further*, That no officer, soldier, seaman, or marine, or other person in the Army or Navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory by reason of being on service therein.

SEC. 24. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said Territory shall, before it become a law, be presented to the governor of the Territory; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the assembly, by adjournment, prevent its return, in which case it shall not be a law.

SEC. 25. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Kansas. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for; and, in the first instance, the governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the legislative assembly;

and shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 26. *And be it further enacted*, That no member of the legislative assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 27. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error, and appeals from the final decisions of said supreme court, shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves, the said writs of error or appeals shall be allowed and decided by said supreme court, without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also be allowed to the Supreme Court of the United States, from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of *habeas corpus*, involving the question of personal freedom: *Provided*, That nothing herein contained shall be construed to apply to or affect the provisions of the "Act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the "Act to amend and supplementary to the aforesaid act," approved September eighteenth, eighteen hundred and fifty; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the circuit and district courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of *habeas corpus* in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as may be necessary, shall be appropriated to the trial of causes arising under the said Constitution and

laws, and writs of error and appeal in all such cases shall be made to the supreme court of said Territory, the same as in other cases. The said clerk shall receive the same fees in all such cases which the clerks of the district courts of Utah Territory now receive for similar services.

SEC. 28. *And be it further enacted*, That the provisions of the act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the provisions of the act entitled "An act to amend and supplementary to the aforesaid act," approved September eighteenth, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of the said Territory of Kansas.

SEC. 29. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Utah. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 30. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney, and marshal shall be nominated, and, by and with the advice and consent of the Senate, appointed, by the President of the United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and, afterward, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The governor shall receive an annual salary of two thousand five hundred dollars. The chief justice and associate justices shall receive an annual salary of two thousand dollars. The secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarterly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually traveled route; and an additional allowance of three dollars shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislature annually, unless, on an extraordinary occasion, the governor shall think

proper to call the legislature together. There shall be appropriated, annually, the usual sum, to be expended by the governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the executive department; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the governor and secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 31. *And be it further enacted*, That the seat of government of said Territory is hereby located temporarily at Fort Leavenworth; and that such portions of the public buildings as may not be actually used and needed for military purposes may be occupied and used, under the direction of the governor and legislative assembly, for such public purposes as may be required under the provisions of this act.

SEC. 32. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives, but the Delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth of March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

SEC. 33. *And be it further enacted*, That there shall hereafter be appropriated, as has been customary for the territorial governments, a sufficient amount, to be expended under the direction of the said governor of the Territory of Kansas, not exceeding the sums heretofore appropriated for similar objects, for the erection of suitable buildings at the seat of government, and for the purchase of a library, to be kept at the seat of government for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal, and attorney of said Territory, and such other persons, and under such regulations as shall be prescribed by law.

SEC. 34. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

SEC. 35. *And be it further enacted,* That until otherwise provided by law, the governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation, to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts as to them shall seem proper and convenient.

SEC. 36. *And be it further enacted,* That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Kansas, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 37. *And be it further enacted,* That all treaties, laws, and other engagements made by the Government of the United States with the Indian tribes inhabiting the Territories embraced within this act shall be faithfully and rigidly observed, notwithstanding anything contained in this act; and that the existing agencies and superintendencies of said Indians be continued with the same powers and duties which are now prescribed by law, except that the President of the United States may, at his discretion, change the location of the office of superintendent.

APPROVED, May 30, 1854.

CONSTITUTION OF KANSAS—1855.*

PREAMBLE.

We, the people of the Territory of Kansas, by our delegates in convention assembled, at Topeka, on the 23d day of October, A. D. 1855, and of the independence of the United States the eightieth year, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, and by virtue of the treaty of cession by France to the United States of the province of Louisiana, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the free pursuits of happiness, do mutually agree with each other to form ourselves into a free and independent State, by the name and style of the State of Kansas, bounded as follows, to wit: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the eastern boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning; and do ordain and establish the following constitution and bill of rights for the government thereof:

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquir-

* This constitution was adopted at a convention which met at Topeka October 23, 1855, and completed its labors November 2, 1855. It was claimed that it was submitted to the people of Kansas and ratified December 15, 1855, receiving 1,731 votes against 46.

ing, possessing, and protecting property, and seeking and obtaining happiness and safety.

SEC. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit; and they have the right to alter, reform, or abolish the same whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the general assembly.

SEC. 3. The people have the right to assemble together, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the general assembly for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defence and security; but standing armies in time of peace are dangerous to liberty and shall not be kept up; and the military shall be kept in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this State, nor involuntary servitude, unless for the punishment of crime.

SEC. 7. All men have a natural and inalienable right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship against his consent; and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless, in cases of rebellion or invasion, the public safety requires it.

SEC. 9. All persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 10. Except in cases of impeachment, and cases arising in the Army and Navy, or in the militia, when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital or otherwise infamous crime unless on presentment or indictment of a grand jury. In any trial in any court, the party accused shall be allowed to appear and defend in person and with counsel, to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial, by an impartial jury of the county or district in which the offence is alleged to have been committed; nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offence.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libellous is true and was published with good motives and for justifiable ends, the party shall be acquitted.

SEC. 12. No person shall be transported out of the State for any offence committed within the same; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 13. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions against unreasonable searches and seizures shall not be violated; and no

warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons and things to be seized.

SEC. 15. No person shall be imprisoned for debt in any civil action, or mesne or final process, unless in case of fraud.

SEC. 16. All courts shall be open; and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and justice administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by this State.

SEC. 18. No power of suspending laws shall ever be exercised except by the general assembly.

SEC. 19. The payment of a tax shall not be a qualification for exercising the right of suffrage.

SEC. 20. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war, or other public exigency imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public use, without toll or other charge therefor, a compensation shall be made to the owner in money; and in all other cases where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money, and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

SEC. 21. No indenture of any negro, or mulatto, made and executed out of the bounds of the State shall be valid within the State.

SEC. 22. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated shall remain with the people.

ARTICLE II.

ELECTIVE FRANCHISE.

SECTION 1. In all elections by the people, the vote shall be by ballot, and in all elections in the general assembly the vote shall be *viva voce*.

SEC. 2. Every white male person, and every civilized male Indian who has adopted the habits of the white man, of the age of twenty-one years and upwards, who shall be at the time of offering to vote a citizen of the United States; who shall have resided and had his habitation, domicile, home, and place of permanent abode in the State of Kansas for six months next preceding the election at which he offers to vote; who, at such time, and for thirty days immediately preceding said time, shall have had his actual habitation, domicile, home, and place of permanent abode in the county in which he offers to vote, and who shall have resided in the precinct or election-district for at least ten days immediately preceding the election, shall be deemed a qualified elector at all elections under this constitution, except in elections by general ticket in the State or district prescribed by law, in which case the elector must have the aforesaid qualifications, but a residence in said district for ten days will entitle him to vote: *Provided*, That no soldier, seaman, or marine, of the regular Army or Navy of the United States, shall be considered a resident of the State in consequence of being stationed within the same.

SEC. 3. The general assembly shall, at its first session, provide for the registration of all qualified electors in each county, and thereafter, from time to time, of all who may become qualified electors.

SEC. 4. The legislature shall have power to exclude from every office of honor, trust, or profit within the State, and from the right of suffrage, all persons convicted of any infamous crime.

SEC. 5. No person shall be deemed capable of holding or being elected to any post of honor, profit, trust, or emolument, civil or military, or exercise the right of suffrage under the government of this State, who shall hereafter fight a duel, send or accept a challenge to fight a duel, or who shall be a second to either party, or who shall in any manner aid or assist in such duel, or who shall be knowingly the bearer

of such challenge or acceptance, whether the same occur or be committed in or out of the State.

SEC. 6. No person who may hereafter be collector or holder of public moneys shall be eligible to any office of trust or profit in the State until he shall have accounted for and paid into the proper public treasury all sums for which he may be accountable.

SEC. 7. No State officer or member of the general assembly of this State shall receive a fee, be engaged as counsel, agent, or attorney in any case or claim against the State.

SEC. 8. No senator or representative shall, during the term of office for which he shall have been elected, be appointed to any civil office of profit in this State which shall have been created or the emoluments of which shall have been increased during such term, except such offices as may be filled by election by the people.

SEC. 9. All officers, civil and military, in this State, before they enter upon the duties of their respective offices, shall take the following oath or affirmation: "I, _____, do swear [or affirm] that I will support the Constitution of the United States and of the State of Kansas; that I am duly qualified according to the Constitution to exercise the office to which I have been elected, [or appointed,] and will, to the best of my abilities, discharge the duties thereof faithfully and impartially, according to law."

SEC. 10. Every person shall be disqualified from holding any office of honor or profit in this State who shall have been convicted of having given or offered any bribe to procure his election, or who shall have made use of any undue influence from power, tumult, or other improper practices.

SEC. 11. All civil officers of the State shall reside within the State, and all district and county officers within their respective districts and counties, and shall have their offices at such places therein as may be required by law.

SEC. 12. Returns of elections for members of Congress, the general assembly, and all other officers not otherwise provided for shall be made to the secretary of state, in such manner as may be prescribed by law.

SEC. 13. Electors shall in all cases be privileged from arrest during their attendance on elections, and in going to and returning therefrom, except in case of felony, treason, and breach of the peace.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government shall be divided into three separate departments, the legislative, the executive, including the administrative, and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

ARTICLE IV.

LEGISLATIVE.

SECTION 1. The legislative power of this State shall be vested in the general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The senators and representatives shall be chosen annually, by the qualified electors of the respective counties or district for which they are chosen, on the first Monday of August, for one year, and their term of office shall commence on the first day of January next thereafter.

SEC. 3. There shall be elected at the first election twenty senators and sixty representatives, and the number afterwards shall be regulated by law.

SEC. 4. No person shall be eligible to the office of senator or representative who shall not possess the qualifications of an elector.

SEC. 5. No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to, or have a seat

in, the general assembly, but this provision shall not extend to township officers, justices of the peace, notaries public, postmasters, or officers of the militia.

SEC. 6. Each house, except as otherwise provided in this constitution, shall choose its own officers, determine its own rule of proceeding, punish its members for disorderly conduct, and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall judge of the qualification, election, and return of its own members, and shall have all other powers necessary for its safety and the undisturbed transaction of business.

SEC. 7. Each house shall keep a journal of its proceedings and publish the same. The yeas and nays on any question shall, at the request of two members, be entered on the journal.

SEC. 8. Any member of either house shall have the right to protest against any act or resolution thereof; and such protest and reason therefor shall, without alteration, commitment, or delay, be entered on the journal.

SEC. 9. All vacancies which may occur in either house shall, for the unexpired term, be filled by election as shall be prescribed by law.

SEC. 10. Senators and representatives shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for words spoken in debate they shall not be questioned in any other place.

SEC. 11. A majority of all the members elected to each house shall be necessary to pass every bill or joint resolution, and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses, and presented to the governor for his approval.

SEC. 12. The doors of each house and of committees of the whole shall be kept open. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting, except for personal safety.

SEC. 13. Every bill shall be read by sections on three several days in each house, unless in case of emergency. Two-thirds of the house where such bill is pending may, if deemed expedient, suspend the rule on a call of the yeas and nays; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

SEC. 14. Every act shall contain but one subject, which shall be clearly expressed in its title. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 15. In all cases when a general law can be made applicable, special laws shall not be enacted.

SEC. 16. No act shall ever be revived or amended by mere reference to its title; but the act revived or the section amended shall be set forth and published at full length.

SEC. 17. No act shall take effect until the same shall have been published and circulated in the counties of the State, by authority, except in case of emergency, which emergency shall be declared in the preamble or the body of the law.

SEC. 18. The election and appointment of all officers, and the filling of all vacancies not otherwise provided for by this constitution or the Constitution of the United States, shall be made in such manner as shall be prescribed by law; but no appointing power shall be exercised by the general assembly, except as provided in this constitution, and in the election of the United States Senator, and in these cases the vote shall be taken *viva voce*.

SEC. 19. The general assembly shall not have power to enact laws annulling the contract of marriage in any case where, by law, the courts of this State may have power to decree a divorce.

SEC. 20. The general assembly shall not have power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest in-

tention of parties and officers, by curing omissions, defects, and errors in instruments and proceedings, arising out of a want of conformity with the laws of this State.

SEC. 21. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Kansas.*"

SEC. 22. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate, and, when sitting for the purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 23. The governor and all other civil officers under the laws of this State shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment according to law.

SEC. 24. Within one year after the ratification of this constitution, and within every subsequent two years thereafter, for the term of ten years, an enumeration of all the white inhabitants of this State shall be made in such manner as shall be directed by law.

SEC. 25. All regular sessions of the general assembly shall be held at the capital of the State, and shall commence on the first Tuesday of January, annually.

SEC. 26. All bills for raising revenue shall originate in the house of representatives, subject, however, to amendment or rejection as in other cases.

SEC. 27. The members of the general assembly shall receive for their services the sum of four dollars per day for each and every day they are actually in attendance at any regular or special session, and four dollars for every twenty miles they shall travel in going to and returning from the place of meeting, by the most usually travelled route; and no session of the general assembly, except the first under this constitution, shall extend beyond the term of sixty days, nor any special session more than forty days.

ARTICLE V.

EXECUTIVE.

SECTION 1. The executive department shall consist of a governor, a lieutenant-governor, secretary of state, treasurer, auditor, and attorney-general, who shall be chosen by the electors of the State at the same time and place of voting for the members of the general assembly.

SEC. 2. The governor, lieutenant-governor, secretary of state, treasurer, auditor, attorney-general, and State printer shall hold their office for two years. Their terms of office shall commence on the first Tuesday of January next after their election, and continue until their successors are elected and qualified, neither of which officers shall be eligible for reelection more than two out of three consecutive terms; nor shall any person be eligible for the office of governor who shall not have attained the age of thirty years.

SEC. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government by the returning-officers, directed to the secretary of state, who shall lay the same before the general assembly at their first meeting thereafter, when they shall open, publish, and declare the result thereof, in the presence of a majority of the members of both houses. The person having the highest number of votes shall be declared duly elected, and a certificate thereof given to such person, signed by the presiding officers of both bodies; but if any two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses.

SEC. 4. The supreme executive power shall be vested in a governor.

SEC. 5. He may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 6. He shall communicate, at every session, by message, to the general assembly, the condition of the affairs of the State, and recommend such measures as he shall deem expedient for their action.

SEC. 7. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purposes for which they were convened.

SEC. 8. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 9. He shall be commander-in-chief of the military in the State, except when they shall be called into the service of the United States.

SEC. 10. The pardoning power shall be vested in the governor under such regulations and restrictions as may be prescribed by law.

SEC. 11. There shall be a seal of the State, the device of which shall be fixed upon by the governor and other State officers, be kept by the governor and used by him officially, and shall be called "The Great Seal of the State of Kansas."

SEC. 12. All grants and commissions shall be used in the name and by the authority of the State of Kansas, sealed with the great seal, signed by the governor, and countersigned by the secretary of state.

SEC. 13. No member of either house of Congress, or other persons holding office under the authority of this State or of the United States, shall execute the office of governor except as herein provided.

SEC. 14. In the case of death, impeachment, resignation, removal, or other disability of the governor, the lieutenant-governor shall exercise the duties of the office of governor until another governor shall be duly qualified; but in such case another governor shall be chosen at the next annual election for members of the general assembly, unless such death, resignation, impeachment, removal, or other disability shall occur within three calendar months immediately preceding such next annual election, in which case a governor shall be chosen at the second succeeding annual election for members of the general assembly; and in case of the death, impeachment, resignation, removal, or other disability of the lieutenant-governor, the president of the senate *pro tempore* shall exercise the office of governor until a governor shall be duly qualified as aforesaid.

SEC. 15. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided, and shall be entitled to the same pay as the speaker of the house of representatives, and in case of his death, impeachment, resignation, removal from office, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 16. Should the office of secretary of state, treasurer, auditor, or attorney-general become vacant, for any of the causes specified in the fourteenth and fifteenth sections, the governor shall fill the vacancy or vacancies until the disability is removed or a successor is elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after such vacancy shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 17. The officers mentioned in this article shall, at stated times, receive for their services compensation to be fixed by law, which shall neither be increased or diminished during the period for which they shall have been elected.

SEC. 18. The officers of the executive department and of the public State institutions shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit the same to the general assembly.

SEC. 19. Every bill which shall have passed both houses shall be presented to the governor. If he approve, he shall sign the same, but if he shall not approve, he shall return it with his objections to the house in which it shall have originated, who shall enter the objections at large upon the journal, and proceed to reconsider the same. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent with the objections to the other house, by which, likewise, it shall be reconsidered, and if approved by two-thirds of that house it shall be a

law. But in such case, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered upon the journals of each house respectively. If any bill shall not be returned by the governor within five days (Sunday excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly, by their adjournment, prevented its return, in which case it shall also be a law, unless sent back within two days after the next meeting.

SEC. 20. Contested elections for governor, lieutenant-governor, judges of the supreme court, and all other State officers, shall be determined by the general assembly, in such manner as may be prescribed by law.

SEC. 21. The general assembly shall have power to provide by law for the election of a surveyor-general, State geologist, and superintendent of common schools, whose duties shall be prescribed by law.

ARTICLE VI.

JUDICIAL.

SECTION 1. The judicial power of the State shall be vested in a supreme court, courts of common pleas, justices of the peace, and in such other courts inferior to the supreme court as the general assembly may establish.

SEC. 2. The supreme court shall consist of three judges, a majority of whom shall form a quorum. It shall have such original and appellate jurisdiction as may be provided by law. It shall hold at least one term each year, at the seat of government, and such other terms as may be provided by law. The judges of the supreme court shall be elected by the electors of the State at large.

SEC. 3. The State shall be divided by the first general assembly under this constitution into three common-pleas districts of compact territory, bounded by county lines, and as nearly equal in population as practicable; and a judge for each district shall be chosen by the electors thereof, and their term of office shall be for three years.

SEC. 4. The courts of common pleas shall consist of one judge each, who shall reside within the district for which he is chosen during his continuance in office.

SEC. 5. The jurisdiction of the court of common pleas, and of the judges thereof, shall be fixed by law.

SEC. 6. A competent number of justices of the peace shall be elected by the electors in each township of the several counties. The term of office shall be three years, and their powers and duties shall be fixed by law.

SEC. 7. All judges, other than those provided for in the constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than three years.

SEC. 8. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold for the term of one year, one for the term of two years, and one for the term of three years, and at all subsequent elections the term of each of said judges shall be for three years.

SEC. 9. In case the office of any judge shall become vacant before the expiration of the term for which he was elected, the vacancy shall be filled by appointment by the governor until a successor shall be elected and qualified; and such successor shall be elected for the residue of the unexpired term at the first annual election that occurs more than thirty days after such vacancy shall have happened.

SEC. 10. The judges of the supreme court and of the courts of common pleas shall, at stated times, receive such compensation as may be provided by law, which shall not be increased or diminished during their term of office, but they shall receive no fees or perquisites, nor hold any other office of profit and trust under the State, other than a judicial office.

SEC. 11. The general assembly may increase or diminish the number of the judges of the supreme court, the number of the districts of the courts of common pleas, the number of judges in any district, or establish other courts whenever two-thirds of

the members elected to each house shall concur therein, but no such change, addition, or diminution shall vacate the office of any judge.

SEC. 12. There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified.

SEC. 13. The general assembly shall provide, by law, for the speedy publication of the decisions of the supreme court made under this constitution.

SEC. 14. The supreme court shall, upon the decision of every case, give an opinion, in writing, of each question arising in the record in such case, and the decision of the court thereon.

SEC. 15. There shall be elected by the voters of the State a clerk and a reporter for the supreme court, who shall hold their offices for three years, and whose duties shall be prescribed by law.

SEC. 16. Judges may be removed from office by concurrent resolution of both houses of the general assembly, if two-thirds of the members elected to each house concur therein; but no such removal shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice thereof, and an opportunity to be heard.

SEC. 17. The several judges of the supreme court, of the court of common pleas, and of such other courts as may be created by law, shall respectively have and exercise such power and jurisdiction, at chambers or otherwise, as may be provided by law.

SEC. 18. The style of all process shall be, "The State of Kansas." All prosecutions shall be carried on in the name and by the authority of the State of Kansas; and all indictments shall conclude, "against the peace and dignity of the State of Kansas."

ARTICLE VII.

EDUCATION.

SEC. 1. The principal of all funds arising from the sale or other disposition of lands or other property granted or intrusted to this State for educational and religious purposes, shall forever be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 2. The general assembly shall make such provision, by taxation or otherwise, as, with the income arising from the school trust-fund, will secure a thorough and efficient system of common schools throughout the State; but no religious or other sect or sects shall ever have any exclusive right to or control of any part of the school-funds of this State.

SEC. 3. The general assembly may take measures for the establishment of a university, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts, science, medical and agricultural instruction.

SEC. 4. Provision may be made by law for the support of normal schools, with suitable libraries and scientific apparatus.

ARTICLE VIII.

PUBLIC INSTITUTIONS.

SEC. 1. It shall be the duty of the general assembly, at as early a date as possible, to provide State asylums for the benefit, treatment, and instruction of the blind, deaf and dumb, and insane.

SEC. 2. The general assembly shall make provision for the establishment of an asylum for idiots, to be regulated by law.

SEC. 3. The respective counties of the State shall provide, in some suitable manner, for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society, under provisions to be made by the laws of the general assembly.

SEC. 4. The general assembly shall make provision for the establishment of houses of refuge for the correction, reform, and instruction of juvenile offenders.

SEC. 5. It shall be the duty of the general assembly to make provision, as soon as possible, for a State general hospital.

ARTICLE IX.

PUBLIC DEBT AND PUBLIC WORKS.

SEC. 1. No money shall be paid out of the treasury except in pursuance of an appropriation by law.

SEC. 2. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

SEC. 3. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never in the aggregate exceed one hundred thousand dollars, unless authorized by a direct vote of the people at a general election. Every such debt shall be authorized by law, and every such law shall provide for the payment of the annual interest of such debt, and the principal within ten years from the passage of such law; and such appropriation shall not be repealed until the principal and interest shall have been wholly paid.

SEC. 4. The legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or repayment of the debts thereby created.

SEC. 5. No scrip, certificate, or other evidence of State debt whatever shall be, except for such debts as are authorized by the third and fourth sections of this article.

ARTICLE X.

MILITIA.

SEC. 1. The militia shall consist of all able-bodied white male persons between the ages of eighteen and forty years, except such as may be exempt by the laws of the United States, or of this State, and shall be organized, officered, armed, equipped, and trained in such manner as may be provided by law.

SEC. 2. The governor shall appoint the adjutant, quartermaster, and commissary-general.

SEC. 3. All militia officers shall be commissioned by the governor, and shall hold their offices not longer than three years.

SEC. 4. The general assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and fix the rank of all officers.

SEC. 5. The militia may be divided into classes, in such manner as shall be prescribed by law.

SEC. 6. No person conscientiously opposed to bearing arms shall be compelled to do militia duty, but such person shall pay an equivalent for such exemption, the amount to be prescribed by law.

SEC. 7. The first general assembly shall offer inducements for the formation, uniforming, and drilling independent volunteer companies in the different cities and counties of this State.

ARTICLE XI.

FINANCE AND TAXATION.

SECTION 1. The general assembly shall provide by law for a uniform and equal rate of assessment and taxation, and taxes shall be levied upon all such property, real and personal, as the general assembly may from time to time prescribe; but all property appropriated and used exclusively for municipal, literary, educational, scientific,

or charitable purposes, and personal property to an amount not exceeding one hundred dollars for each head of a family, and all property appropriated and used exclusively for religious purposes, to an amount not exceeding two hundred thousand dollars, may by general laws be exempted from taxation.

SEC. 2. The general assembly shall provide by law for an annual tax sufficient to defray the estimated ordinary expenses of the State for each year.

SEC. 3. Every law imposing a tax shall state distinctly the object of the same to which it shall be applied.

SEC. 4. On the passage in either house of the general assembly of any law which imposes, continues, or renews a tax, or makes, continues, or renews an appropriation of public or trust money, or releases, discharges, or commutes a claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered on the journal, and three-fifths of all the members elected to such house shall in all such cases be required to constitute a quorum.

ARTICLE XII.

COUNTY AND TOWNSHIP OFFICERS.

SECTION 1. The general assembly shall provide by law for the election of county, city, town, and township officers.

SEC. 2. All officers whose election or appointment is not provided for by this constitution shall be elected by the people, or appointed as the general assembly may by law direct.

SEC. 3. Provision shall be made by law for the removal for misconduct, or malversation in office, of all officers whose powers and duties are not local or legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removal.

SEC. 4. The legislature may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this constitution.

ARTICLE XIII.

CORPORATIONS.

SECTION 1. The general assembly shall not create corporations by special act except for municipal purposes.

SEC. 2. Corporations may be formed under general laws, but such laws may at any time be altered or repealed.

ARTICLE XIV.

JURISPRUDENCE.

SECTION 1. The general assembly, at its first session, shall constitute three commissioners, whose duty it shall be to revise, reform, simplify, and abridge the rules of practice, pleadings, forms, and proceedings of the courts of record of this State, and to provide, so far as practicable and expedient, that justice shall be administered by intelligent and uniform proceedings without any distinction between law and equity.

SEC. 2. The proceedings of the commissioners shall be reported to the general assembly, and be subject to the action of that body.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. The first general assembly shall locate the permanent seat of government.

SEC. 2. Lotteries and the sale of lottery-tickets, for any purpose whatever, shall forever be prohibited in the State.

SEC. 3. No person shall be elected or appointed to any office in this State unless they possess the qualifications of an elector.

SEC. 4. There may be established in the secretary of state's office a bureau of statistics and agriculture, under such regulations as may be prescribed by law, and provision shall be made by the general assembly for the organization and encouragement of State and county agricultural associations.

SEC. 5. The first general assembly shall provide by law for securing to the wife the separate property acquired by her before or after coverture, and the equal right with the husband to the custody of the children during their minority; and in case of death, insanity, intemperance, or gross impropriety of the husband, their exclusive custody.

ARTICLE XVI.

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. All propositions for amendments to the constitution shall be made by the general assembly.

SEC. 2. A concurrence of two-thirds of the members elected to each house shall be necessary, after which such proposed amendments shall be entered upon the journals with the yeas and nays, and the secretary of state shall cause the same to be published in at least one newspaper in each county in the State where a newspaper is published, for at least six months preceding the next election for senators and representatives, when such proposed amendments shall be again referred to the legislature elected next succeeding said publication. If passed by the second legislature, by a majority of two-thirds of the members elected to each house, such amendments shall be republished, as aforesaid, for at least six months prior to the next general election, at which election such proposed amendments shall be submitted to the people for their approval or rejection, and if the majority of the electors voting at such election shall adopt such amendments the same shall become a part of the constitution.

SEC. 3. When more than one amendment is submitted at the same time, they shall be so submitted as to enable the electors to vote upon each amendment separately.

SEC. 4. No convention for the formation of a new constitution shall be called, and no amendment to the constitution shall be by the general assembly made, before the year 1865, nor more than once in five years thereafter.

ARTICLE XVII.

BANKS AND CURRENCY.

SECTION 1. No banks shall be established otherwise than under a general banking-law.

SEC. 2. If the general assembly shall enact a general banking-law, such law shall provide for the registry and countersigning by the auditor of state of all paper-credit designed to be circulated as money, with ample collateral security, readily convertible into specie, for the redemption of the same in gold or silver as shall be required, which collateral security shall be under the control of the proper officer or officers of state. Such law shall restrict the aggregate amount of all paper-credit to be circulated as money, and the aggregate amount to be put in circulation in any one year, and no note issued under the provision of this section shall be of a less denomination than ten dollars.

SEC. 3. The stockholders in every bank or banking company shall be individually liable, to an amount over and above their stock equal to their respective shares of stock, for all debts and liabilities of said bank or banking company.

SEC. 4. All bills or notes issued as money shall be at all times redeemable in gold or silver; and no law shall be passed sanctioning, directly or indirectly, the suspension, by any bank or banking company, of specie payments.

SEC. 5. Holders of bank-notes shall be entitled, in case of insolvency, to preference of specie payment over all other creditors.

SEC. 6. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals loaning money.

SEC. 7. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter to close its business.

SEC. 8. The State shall not be a stockholder in any bank or banking institution.

SEC. 9. All banks shall be required to keep officers and proper offices for the issue and redemption of their paper, at some accessible and convenient point within the State.

SEC. 10. The said banking-law shall contain a provision reserving the power to alter, amend, or repeal said law.

SEC. 11. At the time of submitting this constitution to the electors for their approval or disapproval, the articles numbered, in relation to a general banking-law, shall be submitted as a distinct proposition, in the following form: General banking-law—yes or no; and if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this constitution; otherwise it shall be void and form no part thereof.

SCHEDULE.

In order that no inconvenience may arise from the organization and establishment of a State government, and that the wishes of the people may be fully accomplished, it is declared—

First. That no existing rights, suits, prosecutions, claims, and contracts shall be affected by a change in the form of government.

Second. That this constitution shall be submitted to the people of Kansas for ratification on the 15th day of December next.

Third. That each qualified elector shall express his assent or dissent to the constitution by voting a written or printed ticket, labelled "Constitution," or "No constitution," which election shall be held by the same judges and conducted under the same regulations and restrictions as is hereinafter provided for the election of members of the general assembly, and the judges therein named shall, within ten days after said election, seal up and transmit to the chairman of the executive committee of Kansas Territory the result of said election, who shall forthwith make proclamation of the same; and in case the constitution be ratified by the people, the chairman of the executive committee shall cause publication to be made by proclamation that an election will be held on the third Tuesday of January, A. D. 1856, for governor, lieutenant-governor, secretary of state, treasurer, auditor, judges of the supreme court, State printer, attorney-general, reporter of the supreme court, clerk of the supreme court, and members of the general assembly, which said election shall be held by the same judges, under the same restrictions and conducted in the same manner as is hereinafter provided for the election of members of the general assembly; and the judges herein named are hereby required, within ten days after said election, to seal up and transmit duplicate copies of the returns of said election to the chairman of the executive committee, one of which shall be laid before the general assembly at its first meeting.

Fourth. At the same time and place the qualified voters shall, under the same regulations and restrictions, elect a member of Congress, to represent the State of Kansas in the Thirty-fourth Congress of the United States; the returns of said election to be made to the chairman of the executive committee, who shall deposit the same in the office of the secretary of state, as soon as he shall enter upon the discharge of the duties of his office.

Fifth. The general assembly shall meet on the fourth day of March, A. D. 1856, at the city of Topeka, at 12 m., at which time and place the governor, lieutenant-governor, secretary of state, judge of the supreme court, treasurer, auditor, State printer, reporter and clerk of the supreme court, and attorney-general, shall appear, take the oath of office, and enter upon the discharge of the duties of their respective offices under this constitution, and shall continue in office in the same manner and

during the same period they would have done had they been elected on the first Monday of August, A. D. 1856.

Sixth. Until otherwise provided by law, the State shall be divided into election-districts; and the senators and representatives shall be apportioned among the several districts as follows:

First district.—Commencing in the Kansas River at the mouth of Cedar Creek; thence up said river to the first tributary above the town of Lawrence; thence up said tributary to its source; thence by a direct line to the west side of Johnson's house; thence by a due-south line to the Santa Fé road, and along the middle of said road to a point due south of the source of Cedar Creek; thence due north to the source of Cedar Creek, and down the same to the place of beginning.

Second district.—Commencing at the mouth of Big Spring Branch, on the south bank of the Kansas River; thence up said branch to its furthest source; thence by a southerly line, crossing the Wakarusa River on the east side of the house of Charles Matney, to the middle of the Santa Fé road; thence along the middle of said road to the line of the first district; thence by the same, along the west side of the house of ——— Johnson, to the head of the first tributary of the Kansas above the town of Lawrence; and thence by the same tributary to the Kansas River, and up the south bank of said river to the mouth of Big Spring Branch, the place of beginning.

Third district.—Commencing at the mouth of Big Spring Branch, on the south side of the Kansas River; thence up the same to its furthest source; thence by a southerly line to the north bank of the Wakarusa River, on the east side of the house of Charles Matney; thence up said river and its main branch to the line of the Pottawatomie reservation; and thence by the southern and western line of said reservation to the Kansas River, and down the said river to the place of beginning.

Fourth district.—Commencing at the Missouri State line, in the middle of the Santa Fé road; thence along the middle of said road to Rock Creek, near the 65th mile of said road; thence south to the line of the Shawnee reservation ceded by the treaty of 1854; thence due east, along the south line of said reservation and the north lines of the existing reservations of the Sacs and Foxes, the existing reservations of the Chippewas and Ottawas, and the reservations of the Piankeshaws, Weas, Peorias, and Kaskaskias, to the Missouri State line; thence up the Missouri State line to the place of beginning.

Fifth district.—Commencing at the Missouri State line at the southern boundary of the fourth district; thence west along the same to the northwest corner of the Sac and Fox reservation; thence due south along the west line thereof, and due south to the south branch of the Neosho River, about seventy miles above the Catholic Osage mission; thence down said river to the north line of the reserve for the New York Indians, and east along said line to the headwaters of Little Osage River, or the nearest point thereto; and thence down said river to the Missouri State line, and up said line to the place of beginning.

Sixth district.—Commencing on the Missouri State line in Little Osage River; thence up the same to the line of the reserve for the New York Indians, or the nearest point thereto; thence to and by the north line of said reserve to the Neosho River, and up said river and the south branch thereof to the head; and thence by a due-south line to the southern line of the Territory; thence by the southern and eastern lines of said Territory to the place of beginning.

Seventh district.—Commencing at the east side of the house of Charles Matney on the Wakarusa River; thence due south to the middle of the Santa Fé road; thence westwardly, along the middle of said road, to Rock Creek, near the 65th mile of said road; thence due south to the north line of the Sac and Fox reservation; thence along the north and west line thereof, and due south, to the Neosho River; thence up said river to a point due south of the mouth of Elm Creek; thence due north to the mouth of Elm Creek, and up said creek to the Santa Fé road; and thence by a direct line in a northerly direction to the southwest corner of the Pottawatomie reservation; thence along the southern line of said reservation to the headwaters of the Wakarusa River, or the point nearest thereto; thence to and down the said river to the place of beginning.

Eighth district.—Commencing at the mouth of Elm Creek, one of the branches of Osage River; thence up the same to the Santa Fé road; thence by a direct northerly line to the southwest corner of the Pottawatomic reservation; thence up the western line thereof to Kansas River; thence up said river and the Smoky Hill Fork, beyond the most westerly settlements; thence due south to the line of the Territory; thence by the same to the line of the sixth district; thence due north to the head of the south branch of the Neosho River; thence down said river to the line of the seventh district; thence due north to the place of beginning.

Ninth district.—Commencing at Smoky Hill Fork, beyond the most westerly settlements; thence down the same and the Kansas River to the mouth of Wild Cat Creek; thence up said creek to the headwaters thereof; thence due north to the Independence emigrant road; thence up said road to the north line of the Territory; thence west, along the same, beyond the most westerly settlements; and thence due south to the place of beginning.

Tenth district.—Commencing at the mouth of Vermillion River; thence up the same beyond the house of Josiah D. Adams; thence due north to the Independence emigrant road; thence up the middle of said road to the line of the ninth district; thence by the same to the head of Wild Cat Creek, and down said creek to the Kansas River; thence down said river to the place of beginning.

Eleventh district.—Commencing in the Vermillion River, opposite the north side of the house of Josiah D. Adams; thence up said river to the head of the main branch; thence due north to the military road from Fort Leavenworth to Fort Kearney; thence along the middle of said road to the crossing of the Vermillion Branch of the Blue; thence due north to the northern line of the Territory; thence west, along said line, to the Independence emigrant road; thence down said road to a point due west to the north end of the house of Josiah D. Adams, and due east to the place of beginning.

Twelfth district.—Commencing at the mouth of Soldier Creek, in the Kansas River; thence up said creek to the head of the main branch; thence due north to the military road from Fort Leavenworth to Fort Kearney; thence along the middle of said road to the line of the eleventh district; thence due south to the head of Vermillion River, down Vermillion River to the mouth, and down Kansas River to the place of beginning.

Thirteenth district.—Commencing in the Kansas River, at a point three miles above the mouth of Stranger Creek; thence in a northwardly direction by a line corresponding to and three miles west of the several courses of said creek to the line of the Kickapoo reservation; thence by the southern and western line of said reservation to the military road from Fort Leavenworth to Fort Kearney; thence along the middle of said road to the line of the twelfth district; thence due south to the head of Soldier Creek, down Soldier Creek to the mouth, and down Kansas River to the place of beginning.

Fourteenth district.—Commencing at the mouth of Independence Creek; thence up said creek to the head of the main branch, and thence due west to the line of the late Kickapoo reservation; thence north along said line and the line of the late Sac and Fox reservation to the north line of the Territory; thence along said line eastwardly to the Missouri River, and down said river to the place of beginning.

Fifteenth district.—Commencing at the mouth of Salt Creek on the Missouri River; thence up said creek to the military road, and along the middle of said road to the lower crossing of Stranger Creek; thence up said creek to the line of the late Kickapoo reservation, and thence along the southern and western line thereof to the line of the fourteenth district; thence by the same, and down Independence Creek to the mouth thereof, and thence down the Missouri River to the place of beginning.

Sixteenth district.—Commencing at the mouth of Salt Creek; thence up said creek to the military road; thence along the middle of said road to the lower crossing of Stranger Creek; thence up said creek to the line of the late Kickapoo reservation, and thence along the same to the line of the thirteenth district, and thence by the same, along a line corresponding to the source of Stranger Creek, and keep-

ing three miles west thereof, to the Kansas River; thence down the Kansas River to the Missouri, and up the Missouri River to the place of beginning.

Seventeenth district.—Commencing at the mouth of the Kansas River; thence up the south bank thereof to the mouth of Cedar Creek; thence up Cedar Creek to its source; and thence due south to the Santa Fé road, along the middle of said road to the Missouri State line, and along said line to the place of beginning.

Eighteenth district.—Commencing in the military road at the crossing of the Vermillion branch of Blue River; thence due north to the line of the Territory; thence east, along said line, to the fourteenth district; thence due south along said line to the aforesaid military road, and along the middle of said road to the place of beginning.

Senatorial and representative district.—1st. The first election-district shall be entitled to three senators and eight representatives.

2d. The second election-district shall be entitled to one senator and three representatives.

3d. The third election-district shall be entitled to one senator and three representatives.

4th. The fourth and seventeenth election-districts shall constitute the fourth senatorial and representative district, and be entitled to one senator and two representatives.

5th. The fifth election-district shall be entitled to three senators and nine representatives.

6th. The sixth, seventh, and eighth election-districts shall constitute the sixth senatorial and representative district, and be entitled to two senators and five representatives.

7th. The ninth and tenth election-districts shall constitute the seventh senatorial district, and be entitled to one senator and four representatives.

8th. The eleventh and twelfth election-districts shall constitute the eighth senatorial and representative district, and be entitled to one senator and three representatives.

9th. The thirteenth election-district shall constitute the ninth senatorial and representative district, and be entitled to one senator and two representatives.

10th. The fourteenth and eighteenth election-districts shall constitute the tenth senatorial and representative district, and be entitled to two senators and seven representatives.

11th. The fifteenth election-district shall constitute the eleventh senatorial and representative district, and be entitled to one senator and five representatives.

12th. The sixteenth election-district shall constitute the twelfth senatorial and representative district, and be entitled to three senators and nine representatives.

SEC. 3. Until otherwise provided by law, the election in the several districts shall be held at the following places, and the following-named persons are hereby appointed as judges of the elections:

PLACES OF VOTING.

SEC. 4. *First senatorial district.*—Lawrence precinct, at the Free State Hotel; A. D. Searle, Lyman Allen, Henry Bronson, judges.

Franklin precinct, at the store of Mr. Purdam; James McGee, Horace L. Enos, I. Purdam, judges.

Blanton precinct, at the house of J. B. Abbott; John Stewart, R. Vaughn, P. T. Hupp, judges.

Palmyra precinct, at the house of H. Barricklow; H. Barricklow, Louis Green, A. Pierson, judges.

Second senatorial district.—Bloomington precinct, at the house of H. Burson; Samuel Smith, Daniel Vancil, J. M. Dunn, judges.

Third senatorial district.—Washington precinct, at the house of W. R. Frost; W. Riley, Caleb Antram, Eli Allen, judges.

Tecumseh precinct, at the house of J. Taylor; Charles Jordan, John Morris, Francis Grassmuck, judges.

Topeka precinct, at the law-office of E. C. K. Garvey; Dr. F. L. Crain, Milton C. Dickey, J. F. Cummings, judges.

Brownsville precinct, at the house of G. W. Brown; G. W. Brown, Mr. Simmerwell, Dr. Bowen, judges.

Fourth senatorial district.—Prairie City precinct, at the house of Samuel Mewheny; W. Moore, Samuel Workman, Amos Hanna, judges.

Mission precinct, at the Baptist mission building; G. L. Osborn, S. M. Cornautzer, Lewis Dougherty, judges.

Wakarusa precinct, at the store of Paschal Fish; L. H. Bascom, Ellis Bond, A. G. Green, judges.

Fifth senatorial district.—Osawatimie precinct, at the house of Samuel Geer; William Chestnut, B. Woodbury, William Sailing, judges.

Stanton precinct, at the house of Mr. Staniford; J. Woollard, Mr. Morse, W. G. Nichols, judges.

Potawatimie precinct, at the meeting-house; F. Brown, J. Grant, S. B. Morse, judges.

Hamden precinct, at the house of W. A. Ela; W. A. Ela, Chauncey Morse, George Law, judges.

Sugar Creek precinct, at the house of Silas Young; Silas Young, James W. Dudley, William Dyer, judges.

Little Sugar Creek precinct, at the house of Isaac D. Stockton; I. D. Stockton, Thomas Sears, James Osborn, judges.

Little Osage precinct, at Miller's store; Thomas Osborn, Mr. Miller, Mr. Fawbus, judges.

Osage precinct, at the house of Thomas Polks; Mr. Wycoff, Mr. —, Mr. —, judges.

Sixth senatorial district.—Scott's Town precinct, at the house of Mr. Vandevre; T. Crabtree, Isaac Chatham, F. S. Froscel, judges.

Titus precinct, at the house of J. B. Titus, on the Santa Fe road; J. B. Titus, John Drew, W. Lord, judges.

Council Grove precinct, at the mission house; J. Goodell, G. H. Rees, B. Wright, judges.

Waubonsa precinct, at the house of John H. Nesbit, in Waubonsa; E. R. McCurdy, J. M. Bisby, D. B. Hiatt, judges.

Mill Creek precinct, at the house of J. E. Hoenick; J. E. Hoenick, —, —, judges.

Ashland precinct, at the house of — —; Mr. Adams, —, —, judges.

Clark Creek precinct, at some suitable place near the junction of Clark and Humboldt Creeks; William McCready, Mr. Berry, Mr. Mitchell, judges.

Seventh senatorial district.—Pawnee precinct, at Loder & Shaw's store, in Pawnee; S. P. Higgins, W. M. McClure, L. Knapp, judges.

Big Blue precinct, at the house of S. B. Dyer, in Juniata; J. Stewart, S. D. Houston, J. T. Goodenow, judges.

Rock Creek precinct, at the house of Mr. Haitt; James Darnell, Charles Jenkins, Henry Remmell, judges.

Eighth senatorial district.—Black Vermillion precinct, at some suitable house in said precinct on the Vermillion Branch of the Blue River; John Schmidt, Mr. Hollingburg, Mr. Alvey, judges.

St. Mary's precinct, at the house of B. F. Bertrand; Dr. Palmer, C. Garrett, C. Dean, judges.

Silver Lake precinct, at some suitable house at Indianola; E. Kennedy, J. W. Hopkins, John G. Thompson, judges.

Ninth senatorial district.—Daton precinct, at the store of Bainter & Hoover; Lewis Hoover, Nathan Adams, G. B. Hall, judges.

Grasshopper Falls precinct, at the house of the mill company; S. H. Dunn, John W. Clark, J. B. Ross, judges.

Whitfield precinct, at the house of J. B. Chapman; Thomas Jenners, Vincent D. Collee, James A. Gray, judges.

Tenth senatorial district.—California precinct, at the house of W. W. Moore; W. W. Moore, W. Jackson, judges.

Iowa Point precinct, at the house of Mr. McCall; Mr. Hanley, Mr. Pader, judges. Voters on Independence and Deer Creeks will vote at Doniphan.

St. Jo. Bottom precinct, at the house of B. Harden; George Bryant, H. Smith, wood, A. A. Jamison, judges.

Burr Oak precinct, at the house of Mr. Wilson; Mr. Brock, Mr. Wilson, Thomas McCulloch, judges.

Palermo precinct, at the house of R. Martin; John White, R. Ladd, N. White, judges.

Doniphan precinct, at Collins' Mill; David Lee, D. W. Fields, J. McNamee, judges.

Wolf River precinct, at the house of Mr. Searl; Mr. Searl, Mr. Ulse, Mr. Richardson, judges.

Eleventh senatorial district.—Kickapoo precinct, at some suitable house in Kickapoo City; Dr. McCormas, Mr. Zimmerman, Mr. Boyd, judges.

Port William precinct, at the house of Dr. Hathaway; Dr. Hathaway, Mr. Oliphant, Mr. Potter, judges.

Mount Pleasant precinct, at the house of M. A. Potter; Mr. Ridgway, B. Elliott, M. A. Potter, judges.

Oceana precinct, at the store of Crosby & Co.; Archibald Elliott, A. Landrum, S. J. H. Snyder, judges.

Atchinson precinct, at the house of Mr. Bay; R. Mecubbins, Mr. Bay, Henry Williams, judges.

Twelfth senatorial district.—Leavenworth precinct, at the office of Gardiner & Dodge; Adam Fisher, Thomas H. Doyle, Hide Hook, judges.

Easton precinct, at the house of T. A. Maynard; T. A. Maynard, G. J. Clark, Wm. Pennock, judges.

Wyandot precinct, at the council-house in Wyandot City; Abelard Guthrie, G. J. Clark, Ebenezer Lane, judges.

The executive committee of Kansas Territory is authorized to appoint additional precincts and judges therefor.

INSTRUCTIONS TO JUDGES.

SEC. 7. The three judges will provide for each poll ballot-boxes for depositing the ballots cast by electors; shall appoint two clerks, all of whom shall be sworn or affirmed to discharge the duties of their respective offices impartially and with fidelity; and the judges and clerks shall have power to administer the oath or affirmation to each other; and the said judges shall open said election at 9 o'clock a. m., at the place designated in each precinct, and close the same at 6 o'clock p. m. In case any of the officers appointed fail to attend, the officer or officers in attendance shall supply their places, and in the event of all of them failing to attend, the qualified voters shall supply their places, and the said judges shall make out duplicate returns of said election, seal up and transmit the same within ten days to the chairman of the executive committee, one copy of which is to be laid before the general assembly. If, at the time of holding said election, it shall be inconvenient, from any cause whatever, that would disturb or prevent the voters of any election-precinct in the Territory from the free and peaceable exercise of the elective franchise, the officers are hereby authorized to adjourn said election into any other precinct in the Territory, and to any other day they may see proper, of the necessity of which they shall be the exclusive judges, at which time and place the qualified voters may cast their votes.

SEC. 8. Until otherwise provided by law, the chairman of the executive committee of Kansas Territory shall announce by proclamation the result of the election, and the names of persons elected to office.

SEC. 9. No person shall be entitled to a seat in the first general assembly at its organi-

zation except the members whose names are contained in the proclamation of the chairman of the executive committee, but after the general assembly is organized, seats may be contested in the usual way.

SEC. 10. Certificates of indebtedness may be issued by the territorial executive committee for all necessary expenses accruing in the formation of the State government, not exceeding twenty-five thousand dollars: *Provided*, No certificate shall be issued except for legitimate expenses. All claims shall be made in writing, and shall be numbered and kept on file in the secretary's office, and all certificates of indebtedness shall be signed by the president and secretary, and countersigned by the treasurer, and numbered to correspond with the number of the claim or bill for which it was issued. The certificate shall bear 10 per cent. interest per annum.

SEC. 11. The first general assembly shall provide by law for the redemption of the certificates of indebtedness issued under the provisions of the foregoing section.

SEC. 12. Until the great seal of the State of Kansas is agreed upon and procured, as provided for in the eleventh section of the fifth article of this constitution, the governor shall use his own private seal as the seal of state.

SEC. 13. At the election for the ratification of this constitution, and the first election for State officers, a representation in the Congress of the United States, and members of the general assembly of this State, an actual residence in the Territory of thirty days immediately preceding said election shall be sufficient as a qualification for the elector, and an actual residence of ninety days for the candidates: *Provided*, Said electors and candidates possess all the other qualifications required by the provisions of this constitution.

SEC. 14. The first legislature shall provide by law for the enforcement of the provisions of the sixth section of the bill of rights on or before the 4th day of July, 1857, as to all persons in the Territory before the adoption of this constitution, and as to all others the provisions of said section shall operate from and after the ratification of this constitution by the people.

J. H. LANE, *President*.

SAM. C. SMITH, *Secretary*.

CHAS. A. FOSTER, *Assistant Secretary*.

CONSTITUTION OF KANSAS—1857.*

PREAMBLE.

We, the people of the Territory of Kansas, by our representatives in convention assembled, at Lecompton, in said Territory, on Monday, the fourth day of September, one thousand eight hundred and fifty-seven, and of the independence of the United States of America the eighty-second year, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution and by virtue of the treaty of cession by France to the United States of the province of Louisiana, made and entered into on the thirtieth day of April, one thousand eight hundred and three, and by virtue of, and in accordance with, the act of Congress passed March the thirtieth, one thousand eight hundred and fifty-four, entitled "An act to organize the

* This constitution was adopted at a convention which met at Lecompton, September 5, 1857, adjourned for a month, and completed its labors November 7, 1857. It was immediately forwarded to President Buchanan. The clause sanctioning slave holding was submitted to the people of Kansas, and ratified December 31, 1857, receiving 6,226 votes, against 589 votes. The entire constitution, with its conditional propositions, was submitted to the people of Kansas by its advocates and by its opponents, and each claimed the support of a majority. It was claimed that on the 21st of December, 1858, the constitution with slavery was ratified, receiving 6,143 votes, against 589 for the constitution without slavery; and it was also claimed that on the 4th of January, 1859, the constitution was rejected, receiving 138 votes for it with slavery, 24 votes for it without slavery, and 10,126 votes against it.

Territories of Nebraska and Kansas," in order to secure to ourselves and to our posterity the enjoyment of all the rights of life, liberty, and property, and the free pursuit of happiness, do mutually agree with each other to form ourselves into a free, independent, and sovereign State, by the name and style of the State of Kansas, and do ordain and establish the following constitution for the government thereof:

ARTICLE I.

BOUNDARIES.

We do declare and establish, ratify and confirm, the following as the permanent boundaries of the said State of Kansas, that is to say: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning.

ARTICLE II.

COUNTY BOUNDARIES.

No county now established which borders upon the Missouri River, or upon either bank of the Kansas River, shall ever be reduced by the formation of new counties to less than twenty miles square; nor shall any other county now organized, or hereafter to be organized, be reduced to less than five hundred square miles.

ARTICLE III.

DISTRIBUTION OF POWERS.

The power of the government of the State of Kansas shall be divided into three separate departments—the executive, the legislative, and the judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

ARTICLE IV.

EXECUTIVE DEPARTMENT.

SECTION 1. The chief executive power of this State shall be vested in a governor, who shall hold his office for two years from the time of his installation.

SEC. 2. The governor shall be elected by the qualified electors of the State. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives at the next ensuing session of the legislature, during the first week of which session the speaker shall open and publish them in the presence of both houses of the legislature. The person having the highest number of votes shall be governor; but if two or more shall be equal, and having received the highest number of votes, then one of them shall be chosen governor by the joint ballot of both houses of the legislature. Contested elections for governor shall be determined by both houses of the legislature in such manner as may be prescribed by law.

SEC. 3. The governor shall be at least thirty years of age, shall have been a citizen

of the United States for twenty years, shall have resided in this State at least five years next preceding the day of his election, or from the time of the formation of this constitution, and shall not be capable of holding the office more than four years in any term of six years.

SEC. 4. He shall, at stated terms, receive for his services a compensation which shall be fixed by law, and shall not be increased or diminished during the term for which he shall be elected.

SEC. 5. He shall be commander-in-chief of the Army and Navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He may require information in writing from officers in the executive department on any subject relating to the duties of their respective offices.

SEC. 7. He may, in cases of emergency, convene the legislature at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy or disease; and in case of a disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he may think proper, not beyond the next stated meeting of the legislature.

SEC. 8. He shall, from time to time, give to the legislature information of the state of the government, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. He shall take care that the laws be faithfully executed.

SEC. 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons and remit fines; and in cases of forfeitures, to stay the collection until the end of the next session of the legislature, and to remit forfeitures by and with the advice and consent of the senate. In cases of treason he shall have power to grant reprieves by and with the advice and consent of the senate, but may respite the sentence until the end of the next session of the legislature.

SEC. 11. All commissions shall be in the name and by the authority of the State of Kansas, be sealed with the great seal, and signed by the governor, and attested by the secretary of state.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and the present seal of this Territory shall be the seal of the State until otherwise directed by the legislature.

SEC. 13. All vacancies not provided for in this constitution shall be filled in such manner as the legislature may prescribe.

SEC. 14. The secretary of state shall be elected by the qualified electors of the State, and shall continue in office during the term of two years, and until his successor is qualified. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before the legislature, and shall perform such other duties as may be required by law.

SEC. 15. Every bill which shall have passed both houses of the legislature shall be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated, which shall enter the objections at length upon their journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of the house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of that house, it shall become a law; but in such case the votes of each house shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journals of each house, respectively. If any bill shall not be returned by the governor within six days (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not become a law.

SEC. 16. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except resolutions for the purpose of obtaining the joint action of both houses, and on questions of adjournment, shall be presented to the governor,

and, before it shall take effect, be approved by him; or, being disapproved, shall be re-passed by both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 17. A lieutenant-governor shall be elected at the same time and for the same term as the governor, and his qualifications and the manner of his election shall be the same in all respects.

SEC. 18. In case of the removal of the governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the lieutenant-governor, and the legislature shall provide by law for the discharge of the executive functions in other necessary cases.

SEC. 19. The lieutenant-governor shall be the president of the senate, but shall have no vote except in the case of a tie, when he may give the casting vote; and while acting as such shall receive a compensation equal to that allowed to the speaker of the house of representatives.

SEC. 20. A sheriff and one or more coroners, a treasurer and surveyor, shall be elected in each county by the qualified electors thereof, who shall hold their office for two years, unless sooner removed, except that the coroner shall hold his office until his successor be duly qualified.

SEC. 21. A State treasurer and auditor of public accounts shall be elected by the qualified electors of the State, who shall hold their offices for the term of two years, unless sooner removed.

ARTICLE V.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of this State shall be vested in a legislature, which shall consist of a senate and house of representatives.

SEC. 2. No person holding office under the authority of the United States, except postmasters, or any lucrative office under the authority of this State, shall be eligible to or have a seat in the legislature; but this provision shall not extend to township officers, justices of the peace, notaries public, or militia officers.

SEC. 3. No person who has been, or may hereafter be, convicted of a penitentiary offence, or of an embezzlement of the public funds, shall hold any office in this State; nor shall any person holding public money for disbursement or otherwise have a seat in the legislature, until he shall have accounted for and paid such money into the treasury.

SEC. 4. The members of the house of representatives shall be elected by the qualified electors, and shall serve for the term of two years from the close of the general election and no longer.

SEC. 5. The senators shall be chosen for the term of four years, at the same time, in the same manner, and at the same places as are herein provided for members of the house of representatives.

SEC. 6. At the first session of the legislature the senate shall, by lot, divide their senators into two classes; and the seats of the senators of the first class shall be vacated at the expiration of the second year, and of the second class at the expiration of the fourth year, so that one-half, as near as may be, may be chosen thereafter every two years for the term of four years.

SEC. 7. The number of senators shall not be less than thirteen nor more than thirty-three; and at any time when the number of senators is increased, they shall be annexed by lot to one of the two classes, so as to keep them as nearly equal in number as possible.

SEC. 8. The number of members of the house of representatives shall not be less than thirty-nine, nor more than one hundred.

SEC. 9. The style of the laws of this State shall be, "*Be it enacted by the legislature of the State of Kansas.*"

SEC. 10. Each house may determine the rules of its own proceedings, punish its members for disorderly behavior, and, with the consent of two-thirds, may expel a

member, but not a second time for the same offence. The names of the members voting on the question shall be spread upon the journal.

SEC. 11. Each house during the session may, in its discretion, punish by fine, imprisonment, or both, any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings: *Provided*, Such fine shall not exceed two hundred dollars, or such imprisonment shall not extend beyond the end of the session.

SEC. 12. Each house of the legislature shall keep a journal of its proceedings, and cause the same to be published as soon after the adjournment as may be provided by law.

SEC. 13. Neither house during the session of the legislature shall, without the consent of the other, adjourn for more than three days, (Sundays excepted,) nor to any other place than that in which they may be sitting.

SEC. 14. The senate, when assembled, shall choose its officers, and the house of representatives shall choose a speaker and its other officers, and each branch of the legislature shall be the judge of the qualifications, elections, and returns of its members.

SEC. 15. A majority of each house of the legislature shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner as each house may prescribe.

SEC. 16. Each member of the legislature shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the term for which the members are elected when such law passed.

SEC. 17. Bills may originate in either house, but may be altered, amended, or rejected by the other, and all bills shall be read by sections on three several days, except, on an extraordinary occasion, two-thirds of the members may dispense with such reading, but in no case shall a bill be passed without having once been read; and every bill having passed both houses shall be signed by the speaker and president in the presence of their respective houses.

SEC. 18. The legislature shall provide by law for filling all vacancies that may occur in either house by the death, resignation, or otherwise of any of its members.

SEC. 19. The doors of each house shall be open, except on such occasions as, in the opinion of the house, the public safety may require secrecy.

SEC. 20. Every law enacted by the legislature shall embrace but one subject, and that shall be expressed in its title, and any extraneous matter introduced in a bill which shall pass shall be void; and no law shall be amended by its title, but in such case the act or section amended shall be reenacted and published at length.

SEC. 21. Every act and joint resolution shall be plainly worded, avoiding, as far as practicable, the use of technical terms.

SEC. 22. The legislature shall meet every two years at the seat of government.

SEC. 23. The legislature shall provide for an enumeration of inhabitants by law. An apportionment of representatives in the legislature shall be provided by law according to population, as nearly as may be.

SEC. 24. The legislature shall have no power to grant divorces, to change the names of individuals, or direct the sales of estates belonging to infants or other persons laboring under legal disabilities, by special legislation, but by general laws shall confer such powers on the courts of justice.

SEC. 25. It shall be the duty of all civil officers of this State to use due diligence in the securing and rendition of persons held to service or labor in this State, either of the States or Territories of the United States; and the legislature shall enact such laws as may be necessary for the honest and faithful carrying out of this provision of the constitution.

ELECTION DISTRICTS.

At the first election holden under this constitution for members of the State legislature, the representative and senatorial districts shall be as follows: The first representative district shall consist of Doniphan County, and be entitled to four representa-

tives; the second, Atchison, four representatives; the third, Leavenworth, eight representatives; the fourth, Brown and Nemaha, one representative; the fifth, Calhoun and Pottawatomie, one representative; the sixth, Jefferson, two representatives; the seventh, Marshall and Washington, one representative; the eighth, Riley, one representative; the ninth, Johnson, four representatives; the tenth, Lykins, one representative; the eleventh, Linn, two representatives; the twelfth, Bourbon, two representatives; the thirteenth, McGee, Dorn, and Allen, one representative; the fourteenth, Douglas, five representatives; the fifteenth, Anderson and Franklin, one representative; the sixteenth, Shawnee, two representatives; the seventeenth, Weller and Coffee, one representative; the eighteenth, Woodson, Wilson, Godfrey, Greenwood, and Madison, one representative; the nineteenth, Breckenridge and Richardson, one representative; the twentieth, Davis, Wise, Butler, Hunter, and that portion of country west, one representative—in all, forty-four representatives. The first senatorial district shall be Doniphan County, and be entitled to one senator; the second, Atchison, one senator; the third, Doniphan and Atchison, one senator; the fourth, Leavenworth, three senators; the fifth, Brown, Nemaha, and Pottawatomie, one senator; the sixth, Riley, Marshall, Dickinson, and Washington, one senator; the seventh, Jefferson and Calhoun, one senator; eighth, Johnson, two senators; the ninth, Lykins, Anderson, and Franklin, one senator; the tenth, Linn, one senator; the eleventh, Bourbon and McGee, one senator; the twelfth, Douglas, two senators; the thirteenth, Shawnee, one senator; the fourteenth, Dorn, Allen, Wilson, Woodson, Godfrey, Greenwood, Madison, and Coffee, one senator; the fifteenth, Richardson, Davis, Wise, Breckenridge, Butler, Hunter, and all west of Davis, Wise, Butler, and Hunter, one senator; the entire number of senators, nineteen.

ARTICLE VI.

JUDICIARY.

SECTION 1. This judicial powers of this State shall be vested in one supreme court, circuit courts, chancery courts, courts of probate, and justices of the peace, and such other inferior courts as the legislature may, from time to time, ordain and establish.

SEC. 2. The supreme court, except in cases otherwise directed in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law: *Provided*, That the supreme court shall have power to issue writs of injunction, *mandamus*, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give a general superintendence and control of inferior jurisdictions.

SEC. 3. There shall be held annually, at the seat of government, two sessions of the supreme court, at such times as the legislature may direct.

SEC. 4. The supreme court shall consist of one chief justice and two associate justices.

SEC. 5. The supreme court may elect a clerk and reporter, who shall respectively receive such compensation as the legislature may prescribe.

SEC. 6. The State shall be divided into convenient circuits, and for each circuit there shall be elected a judge, who shall, at the time of his election and as long as he continues in office, reside in the circuit for which he has been elected.

SEC. 7. The circuit courts shall have original jurisdiction of all matters, civil and criminal, within this State not otherwise excepted in this constitution; but in civil cases, only where the matter in controversey shall exceed the sum of one hundred dollars.

SEC. 8. A circuit court shall be held in each county in the State twice in every year, at such times and places as may be prescribed by law; and the judges of the several circuit courts may hold courts for each other when they may deem it advisable, and shall do so when directed by law.

SEC. 9. The legislature may establish a court or courts of chancery with original

and appellate equity jurisdiction, and until the establishment of such court or courts the said jurisdiction shall be vested in the judges of the circuit courts respectively; but the judges of the several circuit courts shall have power to issue writs of injunction returnable to the court of chancery.

SEC. 10. The legislature shall establish within each county in the State a court of probate for the granting of letters testamentary of the administration and orphans' business, and the general superintendence of the estates of deceased persons, and such other duties as may be prescribed by law; but in no case shall they have jurisdiction in matters of civil or criminal law.

SEC. 11. A competent number of justices of the peace in and for each county shall be elected in such mode and for such term of office as the legislature may direct. Their jurisdiction in civil matters shall be limited to cases in which the amount does not exceed one hundred dollars; and in all cases tried by justices of the peace the right of appeal shall be secured, under such rules and regulations as may be prescribed by law.

SEC. 12. The chief justice and associate justices of the supreme court, and judges of the circuit court and courts of chancery, shall, at stated times, receive for their services a compensation which shall be fixed by law, and shall not be diminished during their continuance in office; but they shall receive no fees, no perquisites of office, nor hold any other office of profit or trust under this State, the United States or either of the other States, or any other power, during their continuance in office.

SEC. 13. The chief justice and associate justices of the supreme court shall be elected by the qualified voters of the whole State, the judges of the circuit courts by the qualified voters of their respective circuits, and the judges of the chancery courts shall be elected by the qualified voters of their respective chancery divisions, at such times and places as may be prescribed by law; but said election shall not be on the same day that the election of members of the legislature is held.

SEC. 14. All vacancies in the office of chief justice and associate justices of the supreme court, and judges of the circuit court, court of chancery, and probate court, shall be filled by appointment made by the governor for the time being, but the governor shall, immediately upon the receipt of information of a vacancy aforesaid, order an election to fill such vacancy, first giving sixty days' notice of such election.

SEC. 15. The chief justice and associate justices of the supreme court shall hold their offices for and during the period of six years from the date of their election, and until their successors shall be qualified, and provision shall be made by law for classifying those elected, so that the chief justice or one of the said associate justices of the supreme court shall be elected every two years. The judges of the circuit, chancery, and probate courts shall hold their offices for and during the term of four years from the date of their election, and until their successors shall be qualified.

SEC. 16. Clerks of the circuit courts and courts of probate shall be elected by the qualified electors in each county, and all vacancies in such office shall be filled in such manner as the law may direct.

SEC. 17. The chief justice and associate justices of the supreme court, by virtue of their offices, shall be conservators of the peace throughout the State, the judges of the circuit court throughout their respective circuits, and the judges of the inferior courts throughout their respective counties.

SEC. 18. The style of all process shall be, "The State of Kansas," and all prosecutions shall be carried on in the name and by the authority of the State of Kansas, and shall conclude "against the peace and dignity of the same."

SEC. 19. There shall be an attorney-general of the State, who shall be elected by the qualified voters thereof, and as many district attorneys as the legislature may deem necessary, to be elected by the qualified voters of their respective circuits, who shall hold their offices for the term of four years from the date of their election, and shall receive for their services such compensation as may be established by law, which shall not be diminished during their continuance in office.

SEC. 20. Vacancies occurring in the office of attorney-general, district attorneys, clerk of the circuit court, clerk of the court of probate, justices of the peace, and constables, shall be filled in such manner as shall be provided by law.

SEC. 21. The house of representatives shall have the sole power of impeachment.

SEC. 22. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 23. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and of disqualification to hold any office of honor, trust, or profit under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

ARTICLE VII.

SLAVERY.

SECTION 1. The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever.

SEC. 2. The legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners previous to their emancipation a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to the State from bringing with them such persons as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the *bona-fide* property of such emigrants: *And provided also*, That laws may be passed to prohibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have power to oblige the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb, and, in case of their neglect or refusal to comply with the direction of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 3. In the prosecution of slaves for crimes of higher grade than petit larceny, the legislature shall have no power to deprive them of an impartial trial by a petit jury.

SEC. 4. Any person who shall maliciously dismember or deprive a slave of life shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof, except in case of insurrection of such slave.

ARTICLE VIII.

ELECTIONS AND RIGHTS OF SUFFRAGE.

SECTION 1. Every male citizen of the United States, above the age of twenty-one years, having resided in this State one year, and in the county, city, or town in which he may offer to vote three months next preceding any election, shall have the qualifications of an elector, and be entitled to vote at all elections. And every male citizen of the United States, above the age aforesaid, who may be a resident of the State at the time that this constitution shall be adopted, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the county in which he shall actually reside at the time of the election.

SEC. 2. All voting by the people shall be by ballot.

SEC. 3. Electors, during their attendance at elections, going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony, and breach of the peace.

SEC. 4. No elector shall be obliged to do militia duty on the days of election, except in time of war or public danger.

SEC. 5. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of his own, or of the United States, or of this State.

SEC. 6. No person employed in the military, naval, or marine service of the United States, stationed in this State, shall, by reason of his services therein, be deemed a resident of this State.

SEC. 7. No person shall be elected or appointed to any office in this State, civil or military, who shall not be possessed of the qualifications hereinbefore prescribed for an elector.

SEC. 8. The legislature shall have power to exclude from the privilege of voting, or being eligible to office, any person convicted of bribery, perjury, or other infamous crimes.

SEC. 9. The first general election in this State shall be held on the day and year provided by this constitution, and all general elections thereafter on the day and year provided by subsequent legislative enactment.

ARTICLE IX.

FINANCE.

SECTION 1. The rule of taxation shall be uniform, and taxes shall be levied upon such property as the legislature shall, from time to time, prescribe.

SEC. 2. The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the government for each year; and whenever the expenses of any one year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency as well as the estimated expenses for such ensuing year.

SEC. 3. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts, in the aggregate, shall never exceed five hundred thousand dollars. Every such debt shall be authorized by law for some purpose or purposes, to be distinctly specified therein, and a vote of a majority of all the members elected to both houses shall be necessary to the passage of such law, and such law shall provide for an annual tax to be levied sufficient to pay the interest of such debt created, and such appropriation shall not be repealed, nor the taxes postponed, until the principal and interest of such debt shall have been wholly paid.

SEC. 4. The legislature may also borrow money for the purpose of repelling invasion, suppressing insurrection, and defending the State in time of war; but the money thus raised shall be applied exclusively to the purposes for which it was raised.

SEC. 5. No scrip, certificate, or other evidence of State debt shall be issued, except for such debts as are authorized by the third or fourth sections of this article.

SEC. 6. The property of the State and counties, both real and personal, and such other property as the legislature may deem necessary for school, religious, or charitable purposes, may be exempted from taxation.

SEC. 7. No money shall at any time be paid out of the treasury except in pursuance of an appropriation by law.

SEC. 8. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the legislature.

ARTICLE X.

REVENUE.

SECTION 1. All bills for raising revenue shall originate in the house of representatives.

SEC. 2. Taxation shall be equal and uniform, and all property on which taxes shall be levied shall be taxed in proportion to its value, to be ascertained as directed by legislative enactment, and no one species of property shall be taxed higher than another species of property of equal value on which taxes shall be levied.

SEC. 3. The legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade, or profession.

SEC. 4. The legislature shall provide for the classification of the lands of this State into three distinct classes, to be styled respectively class one, two, three; and each of these classes shall have a fixed value in so much money, upon which there shall be assessed an *ad-valorem* tax.

SEC. 5. The legislature shall provide for a capitation or poll-tax, to be paid by every able-bodied male citizen over twenty-one years and under sixty years of age; but nothing herein contained shall prevent the exemption of taxable polls in cases of bodily infirmity.

SEC. 6. The legislature shall levy a tax on all railroad incomes, proceeding from gifts of public lands, at the rate of ten cents on the one hundred dollars.

SEC. 7. No lotteries shall be authorized by law as a source of revenue.

SEC. 8. Whatever donations of lands or money that may be received from the General Government by this State shall be regarded as a source of revenue subject to a compact made with the United States by special ordinance.

ARTICLE XI.

PUBLIC DOMAIN AND INTERNAL IMPROVEMENT.

SECTION 1. It shall be the duty of the legislature to provide for the prevention of waste and damage of the public land now possessed or that may hereafter be ceded to the Territory or State of Kansas, and it may pass laws for the sale of any part or portion thereof, and, in such case, provide for the safety, security, and appropriation of the proceeds.

SEC. 2. A liberal system of internal improvements being essential to the development of the resources of the country, shall be encouraged by the government of this State; and it shall be the duty of the legislature, as soon as practicable, to ascertain by law proper objects of improvement, in relation to roads, canals, and navigable streams, and to provide for a suitable application of such funds as may be appropriated for such improvements.

ARTICLE XII.

CORPORATIONS.

SECTION 1. Corporations may be formed under a general law, but the legislature may by special act create bodies-politic for municipal purposes, where the objects of the corporations cannot be attained under it; all general laws or special acts enacted under the provisions of this section may be altered, amended, or repealed by the legislature at any time.

SEC. 2. No corporation shall take private property for public use without first having the consent of the owner, or where the necessity thereof being first established by a verdict of a jury, and the value thereof assessed and paid.

SEC. 3. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses.

SEC. 4. The legislature may incorporate banks of deposit and exchange, but such banks shall not issue any bills, notes, checks, or other paper as money.

SEC. 5. The legislature may incorporate one bank of discount and issue, with not more than two branches: *Provided*, That the act incorporating the said bank and branches thereof shall not take effect until it shall be submitted to the people at the general election next succeeding the passage of the same, and shall have been approved by a majority of the electors voting at such election.

SEC. 6. The said bank and branches shall be mutually liable for each other's debts or liabilities for all paper-credits or bills issued representing money; and the stockholders in said bank or branches shall be individually responsible to an amount equal to the stock held by them for all debts or liabilities of said bank or branches, and no

law shall be passed sanctioning, directly or indirectly, the suspension by said bank or its branches of specie payment.

SEC. 7. The State shall not be a stockholder in any bank, nor shall the credit of the State be given or loaned in aid of any person, association, or incorporation, nor shall the State become a stockholder in any corporation or association.

ARTICLE XIII.

MILITIA.

SECTION 1. The militia of this State shall consist of all the able-bodied male citizens of the State between the ages of eighteen and forty-five years, except such citizens as are now, or hereafter may be, exempted by the laws of the United States or of this State.

SEC. 2. Any citizen whose religious tenets conflict with bearing arms, shall not be compelled to do militia duty in time of peace, but shall pay such an equivalent for personal services as may be prescribed by law.

SEC. 3. All militia officers shall be elected, by the persons subject to military duty within the bounds of their several companies, battalions, regiments, brigades, and divisions, under such rules and regulations as the legislature may from time to time direct and establish.

ARTICLE XIV.

EDUCATION.

SECTION 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, schools and the means of education shall be forever encouraged in this State.

SEC. 2. The legislature shall take measures to preserve from waste and damage such lands as have been, or hereafter may be, granted by the United States, or lands or funds which may be received from other sources, for the use of schools within this State, and shall apply the funds which may arise from such lands, or from any other source, in strict conformity with the object of the grant.

SEC. 3. The legislature shall, as soon as practicable, establish one common school (or more) in each township in the State, where the children of the township shall be taught gratis.

SEC. 4. The legislature shall have power to make appropriations from the State treasury for the support and maintenance of common schools whenever the funds accruing from the lands donated by the United States, or the funds received from other sources, are insufficient for that purpose.

SEC. 5. The legislature shall have power to pass laws for the government of all common schools within this State.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. Lecompton shall be the seat of government until otherwise directed by law, two-thirds of each house of the legislature concurring in the passage of such law.

SEC. 2. Every person chosen or appointed to any office under this State, before entering upon the discharge of its duties, shall take an oath or affirmation to support the Constitution of the United States, the constitution of this State, and all laws made in pursuance thereof, and faithfully to demean himself in the discharge of the duties of his office.

SEC. 3. The laws, public records, and the written, judicial, and legislative proceed-

ings of the State, shall be conducted, promulgated, and preserved in the English language.

SEC. 4. Aliens who are or who may hereafter become *bona-fide* residents of this State, shall enjoy the same rights, in respect to the possession, inheritance, and enjoyment of property, as native-born citizens.

SEC. 5. No county-seat shall be removed until the point to which it is proposed to be removed shall be fixed by law, and a majority of the voters of the county voting on the question shall have voted in favor of its removal to such point.

SEC. 6. All property, both real and personal, of the wife, owned or claimed by marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property, and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 7. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 8. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

BILL OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and established, we declare—

1. That all freemen, when they form a social compact, are equal in rights, and that no man or set of men are entitled to exclusive separate public emoluments or privileges but in consideration of public services.

2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper.

3. That all persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience, and no person can of right be compelled to attend, erect, or support any place of worship or maintain any ministry against his consent. That no human authority can in any case whatever interfere with the rights of conscience, and that no preference shall ever be given to any religious establishment or mode of worship.

4. That the civil rights, privileges, or capacities of a citizen shall in nowise be diminished or enlarged on account of his religion.

5. That all elections shall be free and equal.

6. That the right of trial by jury shall remain inviolate.

7. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right.

8. The people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures and searches, and no warrant to search any place, or to seize any person or thing, shall issue without probable cause, supported by oath or affirmation. In all criminal prosecutions the accused has a right to be heard by himself or counsel; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witness or witnesses against him; to have compulsory process for obtaining witnesses in his favor, and in all prosecutions by indictments or informations a speedy public trial by an impartial jury of the county or district in which the offence shall have been committed. He shall not be compelled to give evidence against himself, nor shall he be deprived of his life, liberty, or property, but by due course of law.

9. That no freeman shall be taken or imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived

of his life, liberty, or property, but by the judgment of his peers or the law of the land.

10. No person, for the same offence, shall twice be put in jeopardy of life, limb, or liberty, nor shall any person's property be taken or applied to the public use, unless compensation be made therefor.

11. That all penalties shall be reasonable, and proportionate to the nature of the offence.

12. No person shall be held to answer a capital or otherwise infamous crime, unless on the presentment or indictment of a grand jury, or by impeachment, except in cases of rebellion, insurrection, or invasion.

13. That no conviction shall work corruption of blood or forfeiture of estate.

14. That all prisoners shall be bailable by sufficient securities, unless in capital offences, where the proof is evident or the presumption great, and the privileges of *habeas corpus* shall not be suspended unless when, in the case of rebellion, insurrection, or invasion, the public safety may require it.

15. That excessive bail shall in no case be required, nor excessive fines imposed.

16. That no *ex post facto* law, nor any law impairing the obligations of contracts, shall ever be made.

17. That forfeitures and monopolies are contrary to the genius of a republic, and shall not be allowed, nor shall any hereditary emolument, privileges, or honors ever be granted or conferred in the State.

18. That the citizens have a right, in a peaceable manner, to assemble together for their common good; to instruct their representatives, and to apply to those intrusted with the power of government for redress of grievances or other purposes, by address or remonstrance.

19. That the citizens of this State shall have a right to keep and bear arms for their common defence.

20. That no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

21. The military shall be kept in strict subordination to the civil power.

22. Emigration to or from this State shall not be prohibited.

23. Free negroes shall not be permitted to live in this State under any circumstances.

24. This enumeration of rights shall not be construed to deny or disparage others retained by the people; and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher power herein delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate, and that all laws contrary thereto, or to the other provisions herein contained, shall be void.

SCHEDULE.

SECTION 1. That no inconvenience may arise by reason of a change from a territorial to a permanent State government, it is declared that all rights, actions, prosecutions, judgments, claims, and contracts, as well of individuals as of bodies-corporate, except the bill incorporating banks by the last territorial legislature, shall continue as if no such change had taken place, and all processes which may have issued under the authority of the Territory of Kansas shall be as valid as if issued in the name of the State of Kansas.

SEC. 2. All laws now of force in the Territory of Kansas which are not repugnant to this constitution shall continue and be of force until altered, amended, or repealed, by a legislature assembled under the provisions of this constitution.

SEC. 3. All fines, penalties, and forfeitures to the Territory of Kansas shall inure to the use of the State of Kansas.

SEC. 4. All recognizances heretofore taken shall pass to, and be prosecuted in, the name of the State of Kansas, and all bonds executed to the governor of the Territory, or to any other officer of the court in his or their official capacity, shall pass to the governor and corresponding officers of the State authority and their successors.

in office, and for the use therein expressed, and may be sued for and recovered accordingly; and all the estates or property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, and claims or debts of whatever description, of the Territory of Kansas, shall inure to and vest in the State of Kansas, and be sued for and recovered in the same manner and to the same extent as the same could have been by the Territory of Kansas.

SEC. 5. All criminal prosecutions and penal actions which may have arisen before the change from a territorial to a State government, and which shall then be pending, shall be prosecuted to judgment in the name of the State of Kansas. All actions at law and suits in equity which may be pending in the courts of the Territory of Kansas, at the time of a change from a territorial to a State government, may be continued and transferred to any court of the State which shall have jurisdiction of the subject-matter thereof.

SEC. 6. All officers, civil and military, holding their offices under authority of the Territory of Kansas, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SEC. 7. This constitution shall be submitted to the Congress of the United States at its next ensuing session, and as soon as official information has been received that it is approved by the same, by the admission of the State of Kansas as one of the sovereign States of the United States, the president of this convention shall issue his proclamation to convene the State legislature at the seat of government, within thirty-one days after publication. Should any vacancy occur, by death, resignation, or otherwise, in the legislature, or other office, he shall order an election to fill such vacancy: *Provided, however,* In case of removal, absence, or disability of the president of this convention to discharge the duties herein imposed on him, the president *pro tempore* of this convention shall perform said duties, and in case of absence, refusal, or disability of the president *pro tempore*, a committee consisting of seven, or a majority of them, shall discharge the duties required of the president of this convention.

Before this constitution shall be sent to Congress, asking for admission into the Union as a State, it shall be submitted to all the white male inhabitants of this Territory, for approval or disapproval, as follows: The president of this convention shall, by proclamation, declare that on the twenty-first day of December, one thousand eight hundred and fifty seven, at the different election-precincts now established by law, or which may be established as herein provided, in the Territory of Kansas, an election shall be held, over which shall preside three judges, or a majority of them, to be appointed as follows: The president of this convention shall appoint three commissioners in each county in the Territory, whose duty it shall be to appoint three judges of election in the several precincts of their respective counties, and to establish precincts for voting, and to cause polls to be opened, at such places as they may deem proper in their respective counties, at which election the constitution framed by this convention shall be submitted to all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection, in the following manner and form: The voting shall be by ballot. The judges of said election shall cause to be kept two poll-books by two clerks, by them appointed. The ballots cast at said election shall be endorsed, "Constitution with slavery," and "Constitution with no slavery." One of said poll-books shall be returned within eight days to the president of this convention, and the other shall be retained by the judges of election and kept open for inspection. The president, with two or more members of this convention, shall examine said poll-books, and if it shall appear upon said examination that a majority of the legal votes cast at said election be in favor of the "Constitution with slavery," he shall immediately have the same transmitted to the Congress of the United States, as hereinbefore provided; but if, upon such examination of said poll-books, it shall appear that a majority of the legal votes cast at said election be in favor of the "Constitution with no slavery," then the article providing for slavery shall be stricken from this constitution by the president of this convention, and slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in this Territory shall in no manner be interfered with, and shall have transmitted the constitution,

so ratified, (to Congress the constitution, so ratified,) to the Congress of the United States, as hereinbefore provided. In case of the failure of the president of this convention to perform the duties imposed upon him in the foregoing section, by reason of death, resignation, or otherwise, the same duties shall devolve upon the president *pro tempore*.

SEC. 8. There shall be a general election upon the first Monday in January, eighteen hundred and fifty-eight, to be conducted as the election provided for in the seventh section of this article, at which election there shall be chosen a governor, lieutenant-governor, secretary of state, State treasurer, and members of the legislature, and also a member of Congress.

SEC. 9. Any person offering to vote at the aforesaid election upon said constitution shall, if challenged, take an oath to support the Constitution of the United States, and to support this constitution, under the penalties of perjury under the territorial laws.

SEC. 10. All officers appointed to carry into execution the provisions of the foregoing sections shall, before entering upon their duties, be sworn to faithfully perform the duties of their offices, and in failure thereof be subject to the same charges and penalties as are provided in like cases under the territorial laws.

SEC. 11. The officers provided for in the preceding sections shall receive for their services the same compensation as given to officers performing similar duties under the territorial laws.

SEC. 12. The governor and all other officers shall enter upon the discharge of their respective duties as soon after the admission of the State of Kansas as one of the independent and sovereign States of the Union, as may be convenient.

SEC. 13. Oaths of office may be administered by any judge, justice of the peace, or clerk of any court of record of the Territory or the State of Kansas, until legislature may otherwise direct.

SEC. 14. After the year one thousand eight hundred and sixty-four, whenever the legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two-thirds of the members of each house concurring, to vote for or against calling a convention, and if it shall appear that a majority of all citizens of the State have voted for a convention, the legislature shall, at its next regular session, call a convention, to consist of as many members as there may be in the house of representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the representatives; said delegates so elected shall meet within three months after said election for the purpose of revising, amending, or changing the constitution, but no alteration shall be made to affect the rights of property in the ownership of slaves.

SEC. 15. Until the legislature elected in accordance with the provisions of this constitution shall otherwise direct, the salary of the governor shall be three thousand dollars, and the salary of lieutenant-governor shall be double the pay of a State senator, and the pay of members of the legislature shall be five dollars per diem, until otherwise provided by the first legislature, which shall fix the salaries of all officers other than those elected by the people at first election.

SEC. 16. This constitution shall take effect and be in force from and after its ratification by the people, as hereinbefore provided.

Done in convention at Lecompton, in the Territory of Kansas, on the seventh day of November, in the year of our Lord one thousand eight hundred and fifty-seven, and of the Independence of the United States of America the eighty-second. In testimony whereof we have hereunto subscribed our names.

CHARLES J. McILVAINE, *Secretary*.

J. CALHOUN, *President*.

ORDINANCE.

Whereas the government of the United States is the proprietor, or will become so, of all or most of the lands lying within the limits of Kansas, as determined under

this constitution; and whereas the State of Kansas will possess the undoubted right to tax such lands for the support of her State government, or for other proper and legitimate purposes connected with her existence as a State:

Now, therefore, be it ordained by this convention, on behalf of and by the authority of the people of Kansas, that the right aforesaid to tax such lands shall be, and is hereby, forever relinquished, if the conditions following shall be accepted and agreed to by the Congress of the United States:

SECTION 1. That sections numbered 8, 16, 24, and 36, in every township in the State, or in case either of said numbered sections are or shall be otherwise disposed of, that other lands, equal thereto in value and as contiguous as may be, shall be granted to the State, to be applied exclusively to the support of common schools.

SEC. 2. That all salt-springs, and gold, silver, copper, lead, or other valuable mines, together with the lands necessary for their full occupation and use, shall be granted to said State for the use and benefit of said State, and the same shall be used or disposed of under such terms and conditions and regulations as the legislature of said State shall direct.

SEC. 3. That 5 per centum of the proceeds of the sales of all public lands sold or held in trust or otherwise lying within the said State, whether sold before or after the admission of the State into the Union, after deducting all expenses incidental to the same, shall be paid to the said State of Kansas for the purpose following, to wit: two-fifths to be disbursed under the direction of the legislature of the State for the purpose of aiding the construction of railroads within said State, and the residue for the support of common schools.

SEC. 4. That seventy-two sections, or two entire townships, shall be designated by the President of the United States, which shall be reserved for the use of a seminary of learning, and appropriated by the legislature of said State solely to the use of said seminary.

SEC. 5. That each alternate section of land now owned, or which may hereafter be acquired by the United States, for twelve miles on each side of a line of railroad to be established or located from some point on the northern boundary of the State, leading southerly through said State in the direction of the Gulf of Mexico, and on each side of a line of railroad to be located and established from some point on the Missouri River westwardly through said State in the direction of the Pacific Ocean, shall be reserved and conveyed to said State of Kansas for the purpose of aiding in the construction of said railroad, and it shall be the duty of the Congress of the United States, in conjunction with the proper authorities of this State, to adopt immediate measures for carrying the several provisions herein contained into full effect.

CONSTITUTION OF KANSAS—1858.*

MEMORIAL.

The delegates of the people of Kansas, in convention assembled, do respectfully memorialize Congress for admission into the Union, with the accompanying constitution:

ORDINANCE.

By the authority of the people of Kansas, be it ordained by this convention, irrevocably, that the State of Kansas will never, without the consent of Congress, interfere with the title of the United States to the public domain, or unsold lands within

* This constitution was adopted at a convention which met at Mineola March 23, 1858, adjourned to Leavenworth March 25, 1858, and completed its labors April 3, 1859. It was claimed that it was submitted to the people of Kansas third Tuesday of May, A. D. 1858, and ratified, receiving 4,346 votes against 1,257 votes.

the limits of said State, or the primary right of the United States to dispose of the same, or with any regulation which Congress may prescribe for securing the title thereof to purchasers in good faith; and also that no tax or other assessment shall be imposed upon the lands belonging to the United States: *Provided*, That the conditions following shall be accepted and agreed to by the Congress of the United States: *First*. The sections numbered sixteen and thirty-six in every township, including Indian reserve or trust lands, in said State (and where either of such sections, or any part thereof, has been sold, or otherwise alienated or appropriated, other lands, equivalent thereto, as nearly contiguous as possible) shall be granted to the said State exclusively for the use of common schools. *Second*. That seventy-two sections of land shall be set apart and reserved for the use and support of four district colleges, to be located in the four equal divisions of the State; said lands to be selected by the governor of the State, subject to the approval of the Commissioner of the General Land-Office. *Third*. That thirty-six sections of land, to be selected by the governor of said State, shall be granted to said State for the purpose of the erection of public buildings at the seat of government, and the erection of buildings for the various public benevolent institutions created by the State constitution. *Fourth*. That the salt-springs, and gold, silver, copper, lead, or other valuable mines, not exceeding twelve in number, with six sections of land adjacent, shall be granted to the said State, to be selected, used, or alienated, as may hereafter be prescribed by law. *Fifth*. That 5 per centum of the net proceeds of the sales of public lands within said State, sold by Congress after the admission of said State into the Union, shall be paid to the said State for the purpose of creating a common-school fund, the principal to be held sacred, and the interest to be applied to the education of the children of Kansas. *Sixth*. That each alternate section of land now owned, or which may hereafter be acquired by the United States, lying for six miles in width on each side of the following lines of railroads, shall be granted by Congress to the State of Kansas: 1st. Commencing on the Missouri State line, at some point south of the fourth standard parallel line, and traversing Southern Kansas westwardly; 2d. Commencing at some point on the Missouri River or Missouri State line, and traversing Central Kansas westwardly; 3d. Commencing at some point on Missouri River, and traversing Northern Kansas westwardly; 4th. Commencing at some point on the Missouri River, and running southerly in the direction of the Gulf of Mexico: *Provided*, That should the alternate sections along the lines of said railroads be disposed of, an equal number of sections shall be selected from any other public lands contiguous to said railroads; said lands to be reserved and conveyed to the State, for the purpose of aiding in the construction of said railroads, under such rules and restrictions as may hereafter be prescribed by law. The Congress of the United States, in conjunction with the proper authorities of this State, may adopt the necessary measures for carrying the several provisions herein contained into effect.

PREAMBLE.

We, the people of the Territory of Kansas, grateful to Almighty God for our freedom, by our delegates in convention assembled, having the right of admission into the Union as one of the United States of America, consistent with the Federal Constitution, and by virtue of the treaty of cession by France to the United States of the province of Louisiana, believing that the time has arrived when our present political condition should cease and the right of self-government be asserted, in order to secure to ourselves and our posterity all the rights of life, liberty, and property, and the free pursuit of happiness, ordain the following constitution as the organic law of a free and independent State, by the name and style of the State of Kansas, bounded as follows, to wit: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence, following said boundary westward to the eastern boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning.

ARTICLE 1.

BILL OF RIGHTS.

SECTION 1. All men are by nature equally free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety; and the right of all men to the control of their persons exists prior to law, and is inalienable.

SEC. 2. All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit, and they alone have the right at all times to alter, reform, or abolish their form of government in such manner as they may think proper. No special privileges or immunities shall ever be granted by the general assembly which may not be altered, revoked, or repealed by the same authority.

SEC. 3. The people have the right to assemble in a peaceable manner to consult for their common good, to instruct their representatives, and to petition the general assembly for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defence and security; but standing armies in time of peace are dangerous to liberty, and shall not be kept up, and the military shall be in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate, and extend to persons of every condition.

SEC. 6. There shall be no slavery in this State, and no involuntary servitude, unless for the punishment of crime, whereof the parties shall have been duly convicted.

SEC. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship against his consent; and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of religious belief; but nothing herein contained shall be so construed as to dispense with oaths or affirmations. Religious morality and knowledge, however, being essential to good government, it shall be the duty of the legislature to make suitable provisions for the protection of all religious denominations in the peaceable enjoyment of their modes of worship, and for the encouragement of schools and the means of instruction.

SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless, in case of invasion or rebellion, the public interest require it.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

SEC. 10. Except in cases of impeachment, and in cases arising in the Army or Navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital or otherwise infamous crime unless upon presentment or indictment of a grand jury. In any trial in any court, the accused shall be allowed to appear and defend in person or by counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed; nor shall any person be compelled in any criminal case to be a witness against himself, or twice put in jeopardy for the same offence.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of such right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all prosecutions for libel the truth of the charge may be given in evidence to the jury, and if it shall ap-

pear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the accused shall be acquitted.

SEC. 12. No person shall be transported out of the State for any offence committed within the same, and no conviction in this State shall work a corruption of blood or forfeiture of estate.

SEC. 13. No soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in a manner prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures, shall be inviolate; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 15. No person shall be imprisoned for debt in any civil action or mesne or final process, except in cases of fraud.

SEC. 16. All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have a remedy by due course of law, and justice administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges shall ever be granted or conferred in this State.

SEC. 18. No power of suspending laws shall be exercised except by the general assembly.

SEC. 19. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war, or other public exigencies imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public without charge, a just compensation shall be made to the owners in money; and in all other cases where private property shall be taken for public uses, a compensation therefor shall first be made in money, or first secured by depositing money, and such compensation shall be estimated by a jury without deduction for benefits to any property of the owner.

SEC. 20. The payment of a tax shall not be a qualification for exercising the right of suffrage.

SEC. 21. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

SEC. 22. No indenture of any persons made and executed out of the bounds of the State shall be valid within the State.

ARTICLE II.

ELECTIVE FRANCHISE.

SECTION 1. In all elections not otherwise provided for by this constitution, every male citizen of the United States, of the age of twenty-one years or upwards, who shall have resided in the State six months next preceding such election, and ten days in the precinct in which he may offer to vote, and every male person of foreign birth of the age of twenty-one years or upwards, and who shall have resided in the United States one year, in this State six months, and in the precinct in which he may offer to vote ten days next preceding such election, and who shall have declared his intention to become a citizen of the United States ten days preceding such election, shall be deemed a qualified elector.

SEC. 2. No soldier, seaman, or marine, in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in this State in consequence of being stationed within the same, nor shall any such soldier, seaman, or marine have the right to vote.

SEC. 3. No person shall be deemed to have lost his residence in this State by reason of his absence either on business of this State or the United States.

SEC. 4. Every person shall be disqualified from holding office during the term for which he may have been elected who shall have given or offered a bribe or reward to procure his election.

SEC. 5. Every person who shall give or accept a challenge to fight a duel, or who

shall knowingly carry to another person such challenge, or who shall agree to go out of this State to fight a duel, shall be ineligible to any office of trust or profit in this State.

SEC. 6. The general assembly shall have the power to deprive of the right of suffrage and to render ineligible to office any person convicted of an infamous crime.

SEC. 7. No person holding a lucrative office or appointment under the Constitution or laws of the United States, or of this State, shall be eligible to a seat in the general assembly; nor shall any person hold more than one lucrative office at the same time, except as in this constitution expressly permitted: *Provided*, That offices in the militia to which there is attached no annual salary, where the compensation does not exceed ninety dollars per annum, shall not be deemed lucrative.

SEC. 8. No person who may hereafter be collector or holder of public moneys shall be eligible to any office of trust or profit in the State until he shall have accounted for and paid into the proper treasury all sums for which he may be accountable.

SEC. 9. Any person who shall commit a fraud tending to affect the result of any election in this State shall, on conviction thereof, be forever ineligible as an elector.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government shall be divided into three separate departments: the legislative, the executive, including the administrative, and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

ARTICLE IV.

LEGISLATURE.

SECTION 1. The legislative power of the State shall be vested in the general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The senators and representatives shall be chosen annually, by the qualified electors of the respective counties or districts for which they are chosen, on the Tuesday next after the first Monday in November. Their terms of office shall be one year, and shall commence on the first day of January next after their election.

SEC. 3. There shall be elected at the first election twenty-five senators and seventy-five representatives, and the number afterwards shall be regulated by law; and the general assembly shall, in all apportionments for members of the legislature, establish single representative and single senatorial districts.

SEC. 4. No person shall be eligible to the office of senator or representative who shall not at the time of his election possess the qualifications of an elector.

SEC. 5. Each house, except as otherwise provided in this constitution, shall choose its own officers, determine its own rules of proceeding, punish its members for disorderly conduct, and, with the concurrence of two-thirds of all the members elected to the house, expel a member, but not the second time for the same cause; and shall judge of the qualification, election, and return of its own members, and have all other powers necessary to secure its safety and the undisturbed transaction of its business.

SEC. 6. Each house shall keep a journal of its proceedings, which shall be published. The yeas and nays shall, at the request of two members, be taken and entered on the journal.

SEC. 7. Any member of either house shall have the right to protest against any act or resolution thereof; and such protest and reason therefor shall, without alteration, commitment, or delay, be entered on the journal.

SEC. 8. All vacancies which may occur in either house shall, for the unexpired term, be filled by election, as shall be prescribed by law.

SEC. 9. Senators and representatives shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for words spoken in debate they shall not be questioned in any other place.

SEC. 10. A majority of all the members elected to each house voting in the affirmative shall be necessary to pass a bill or joint resolution, and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses and presented to the governor for his approval.

SEC. 11. The doors of each house and of committees of the whole shall be kept open. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting, except for personal safety.

SEC. 12. Every bill shall be read by sections in each house on three several days, except in case of emergency. Two-thirds of the house where such bill is pending may, if deemed expedient, suspend the rules on a call of the yeas and nays; but the reading of a bill by sections on its final passage shall in no case be dispensed with; and the vote on the final passage of every bill and joint resolution shall be taken by yeas and nays, and entered on the journal.

SEC. 13. Every act shall contain but one subject, which shall be clearly expressed in its title. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 14. In all cases where a general law can be made applicable, special laws shall not be enacted.

SEC. 15. No act shall ever be revived or amended by mere reference to its title, but the act revived or the section amended or revived at full length.

SEC. 16. No general act shall take effect until the same shall have been published and circulated in the counties of the State by authority, except in case of emergency, which emergency shall be declared in the preamble or the body of the law.

SEC. 17. The election and appointment of all officers, and the filling of all vacancies not otherwise provided for by this constitution or the Constitution of the United States, shall be made in such manner as shall be prescribed by law; but no appointing power shall be exercised by the general assembly, except as provided in this constitution and in the election of the United States Senators, and in these cases the vote shall be taken *viva voce*.

SEC. 18. The general assembly shall not have power to enact special laws annulling the contract of marriage.

SEC. 19. The general assembly shall not have power to pass retroactive laws, or laws impairing the obligation of contracts, but may, by general laws, authorize the courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties and officers, by curing omissions, defects, and errors in instruments and proceedings arising out of a want of conformity with the laws of this State.

SEC. 20. The style of the laws of this State shall be, "*Be it enacted by the general assembly of the State of Kansas.*"

SEC. 21. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate, and, when sitting for this purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 22. The governor and all other civil officers under the laws of this State shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust, or profit under the laws and constitution of this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 23. Within one year after the ratification of this constitution, and within two years subsequently, for the term of ten years, an enumeration of all the inhabitants of this State shall be made in such manner as shall be directed by law.

SEC. 24. All regular sessions of the general assembly shall be held at the capital of the State, and shall commence on the first Monday of January annually.

SEC. 25. All bills for raising revenue shall originate in the house of representatives.

SEC. 26. The members of the general assembly shall receive for their services the sum of four dollars per day for each and every day they are actually in attendance at any regular or special session, and four dollars for every twenty miles they shall travel in going to and returning from the place of meeting by the usually-travelled route; and no regular sessions of the general assembly, except the first, under this constitution, shall extend beyond the term of sixty days, nor any special session more than forty days.

SEC. 27. Every bill or resolution shall, before its final passage, be printed for the use of the general assembly.

ARTICLE V.

EXECUTIVE.

SECTION 1. The executive department shall consist of a governor, a lieutenant-governor, secretary of state, treasurer of state, auditor of state, and attorney-general, who shall be chosen by the electors of the State at the same time and place of voting as for the members of the general assembly.

SEC. 2. The term of office of the governor, lieutenant-governor, treasurer, auditor, secretary of state, and attorney-general, shall commence on the first day of January next after their election, and shall continue for two years, and until their successors are elected and qualified. No person shall be eligible for the above offices more than two out of three consecutive terms.

SEC. 3. The returns of every election for the officers named in the preceding section shall be sealed up and transmitted to the seat of government by the returning officers, directed to the secretary of state, who shall lay the same before the general assembly at their first meeting thereafter, when they shall open and canvass them, and publish and declare the result thereof in the presence of a majority of the members of both houses. The persons having the highest number of votes shall be declared duly elected, and a certificate thereof given to such persons, signed by the presiding officers of both houses; but if any two or more shall have the highest and equal number of votes for the same office, one of them shall be chosen by a vote of the two houses of the general assembly in joint session.

SEC. 4. The executive power shall be vested in a governor.

SEC. 5. He may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 6. He shall communicate at every session, by message, to the general assembly, the condition of the affairs of the State, and recommend such measures as he shall deem expedient for their action.

SEC. 7. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state in such proclamation the purpose for which they are convened; and the general assembly shall enter upon no legislative business except that for which they were especially called together.

SEC. 8. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 9. He shall be commander-in-chief of the military in the State, except when they shall be called into the service of the United States.

SEC. 10. The pardoning power shall be vested in the governor, under such regulations and restrictions as may be prescribed by law.

SEC. 11. There shall be a seal of the State, the device for which shall be agreed upon by the general assembly, and which shall be kept by the governor and used by him officially, and shall be called "The Seal of the State of Kansas."

SEC. 12. All grants and commissions shall be issued in the name and by the author-

ity of the State of Kansas, sealed with the seal thereof, signed by the governor, and countersigned by the secretary of state.

SEC. 13. No member of either house of Congress, or other persons holding office under the authority of this State or of the United States, shall execute the duties of governor, except as herein provided.

SEC. 14. In case of the death, impeachment, resignation, removal, or other disability of the governor, the lieutenant-governor shall exercise the duties of the office of governor until another governor shall be duly qualified or the disability be removed; but in such case another governor shall be chosen at the next annual election for members of the general assembly, unless such death, resignation, impeachment, removal, or other disability, shall occur within three calendar months immediately preceding such next annual election, in which case a governor shall be chosen at the second succeeding annual election for members of the general assembly; and in case of the death, impeachment, resignation, removal, or other disability of the lieutenant-governor, the president of the senate *pro tempore* shall exercise the office of governor, until a governor shall be duly qualified as aforesaid.

SEC. 15. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided, and shall be entitled to the same pay as the speaker of the house of representatives, and in case of his death, resignation, impeachment, removal from office, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore*.

SEC. 16. Should the office of secretary of state, auditor of state, treasurer of state, or attorney-general, become vacant, for any of the causes specified in the fourteenth and fifteenth sections, the governor shall fill the vacancy or vacancies until the disability is removed or a successor is elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after such vacancy shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 17. The officers mentioned in this article shall, at stated times, receive for their services compensation to be fixed by law, which shall neither be increased or diminished during the period for which they shall have been elected.

SEC. 18. The officers of the executive department and of the public State institutions shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit the same to the general assembly.

SEC. 19. Every bill which shall have passed both houses shall be presented to the governor. If he approves, he shall sign the same, but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, which shall enter the objections at large upon the journal and proceed to reconsider the bill. If, after such reconsideration, a majority of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered, and, if approved by a majority of that house, it shall be a law; but in such case the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journals of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it, unless the general assembly, by adjournment, prevent its return, in which case it shall not be a law.

ARTICLE VI.

JUDICIAL.

SECTION 1. The judicial power of the State shall be vested in a supreme court, circuit courts, county courts, justices of the peace, and in such other courts inferior to the supreme court as may be established in the manner hereinafter provided.

SEC. 2. The supreme court shall consist of three judges, a majority of whom shall form a quorum. It shall hold at least one term in each year, at the seat of government, and such other terms, there or elsewhere, as may be required by law.

SEC. 3. The judges of the supreme court shall be elected by the electors of the State at large, at the first election under this constitution. The term of one of said judges shall be two years, of another four years, of another six years; and at all subsequent elections the term of each of said judges shall be six years.

SEC. 4. The judge having the shortest term to serve, not holding by appointment, shall be chief justice.

SEC. 5. The general assembly shall provide by law for the speedy publication of the decisions of the supreme court.

SEC. 6. There shall be elected by the voters of the State a clerk and a reporter for the supreme court, who shall hold their offices for three years.

SEC. 7. The circuit courts shall each consist of one judge. The State shall be divided into judicial circuits, and a judge for each circuit shall be elected by the voters thereof. He shall, while in office, reside in the circuit for which he is chosen, and his term of office shall be three years.

SEC. 8. Until otherwise provided by law, there shall be five judicial circuits, as follows: The first, comprising the counties of Leavenworth, Jefferson, Atchinson, and Brown; the second, the counties of Calhoun, Nemaha, Pottawatomie, Marshall, Riley, Washington, and Clay; the third, the counties of Shawnee, Douglas, Johnson, Lykins, Franklin, and Weller; the fourth, the counties of Linn, Bourbon, Coffey, Anderson, Allen, Woodson, Dorris, and McGee; the fifth, the counties of Richardson, Breckenridge, Madison, Greenwood, Godfrey, Hunter, Butler, Wise, Davis, and Dixon.

SEC. 9. The general assembly may provide by law that the judge of one circuit may hold the courts of another circuit in case of necessity or convenience.

SEC. 10. The county courts shall each consist of one judge, who shall be elected by the voters of each county, who shall reside in the county, and his term of office shall be two years.

SEC. 11. A sufficient number of justices of the peace shall be elected by the voters of each township of the several counties. Their term of office shall be two years.

SEC. 12. All judges, other than those hereinbefore provided for, shall be elected by the electors of the judicial district over which their jurisdiction may extend, but not for a term of office longer than six years.

SEC. 13. The jurisdiction of the supreme court, the circuit courts, the county courts, the justices of the peace, and such other courts as may be created, shall be fixed by law; and the judges of the courts shall, respectively, have and exercise such power and jurisdiction at chambers as may be provided by law.

SEC. 14. Judges may be removed from office by concurrent resolution of both houses of the general assembly, if two-thirds of the members elected to each house concur therein; but no such removal shall be made, except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have notice thereof and an opportunity to be heard.

SEC. 15. In case the office of any judge shall become vacant before the expiration of the term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor shall be elected for the residue of the unexpired term, at the first annual election that occurs more than thirty days after such vacancy shall have happened.

SEC. 16. The compensation of the judges of the supreme court and the circuit courts shall not be increased or diminished during their term of office, and they shall receive no fees or perquisites, nor hold any office of profit and trust under the State other than a judicial office.

SEC. 17. The general assembly may at any time increase the number of the judges of the supreme court, may increase or diminish the number of the judicial circuits, or change the circuits, or may establish other courts by a law passed by two-thirds of the members elected to each house; but no such change, addition, or diminution shall vacate the office of any judge.

SEC. 18. There shall be elected in each county, by the electors thereof, one clerk of the courts, who shall hold his office for the term of two years, and until his successor

shall be elected and qualified. He shall be clerk of the county court and the circuit court in the county in which he is chosen.

SEC. 19. There shall be elected in each county, by the voters thereof, one county attorney, who shall hold his office for the term of two years, and until his successor shall be elected and qualified.

SEC. 20. The duties, compensation, fees, and perquisites of the officers provided for in this article shall be fixed by law.

SEC. 21. The style of all process shall be "The State of Kansas." All prosecutions shall be carried on in the name and by the authority of the State of Kansas, and all indictments shall conclude "against the peace and dignity of the State of Kansas."

ARTICLE VII.

EDUCATION.

SECTION 1. The stability and perpetuity of free republican institutions depend upon the intelligence and virtue of the people; therefore, it is declared to be the duty of the State to establish by law, at the earliest possible period, a uniform system of free schools, in which every child in the State shall be entitled to receive a good common-school education at the public expense.

SEC. 2. The principal of all school-funds, from whatever source, shall be the common property of the State, and may be increased, but shall forever be preserved inviolate and undiminished.

SEC. 3. The income of the school-fund shall be devoted exclusively to the support of schools, and, together with any funds raised in any other manner for school purposes, shall be distributed through the county or township treasurer to the several school districts, in some equitable proportion, to the number of children and youth resident therein between the ages of five and twenty-one years.

SEC. 4. The school-lands shall never be sold until such sale is authorized by a free and fair vote of the people of Kansas, but, subject to valuation every three years, may be leased at a per centum established by law.

SEC. 5. No religious sect or sects shall ever have any right to, or control of, any part of the school-funds of this State.

SEC. 6. The general assembly shall make such provision, by taxation or otherwise, as, with the income arising from the school-fund, will secure throughout the State the maintenance of a thorough and uniform system of common schools, which shall be kept up and supported in each district at least four months in each year, and shall be open and free to every child in the State between the ages of five and twenty-one years.

SEC. 7. As the means of the State will admit, educational institutions of a higher grade shall be established by law, so as to form a complete system of public instruction, embracing the primary, normal, preparatory, collegiate, and university departments.

SEC. 8. At the first election of State officers, and biennially thereafter, the people shall elect a superintendent of public instruction, whose duties and compensation shall be prescribed by law.

SEC. 9. At the first election of State officers, and biennially thereafter, there shall be elected by the people a commissioner of school-funds, who shall have the charge of the school-lands and the principal of the school-fund, whose duties and compensation shall be prescribed by law.

ARTICLE VIII.

PUBLIC INSTITUTIONS.

SECTION 1. It shall be the duty of the general assembly, at as early a date as possible, to provide State asylums for the benefit, treatment, and instruction of the blind, deaf and dumb, and insane.

SEC. 2. The general assembly shall make provision for the establishment of an asylum for idiots, to be regulated by law.

SEC. 3. The general assembly shall make provision for the establishment of houses of refuge, for the correction, reform, and instruction of juvenile offenders.

SEC. 4. It shall be the duty of the general assembly to make provision, as soon as possible, for a State hospital and a State penitentiary: *Provided*, That not more than one of the aforesaid institutions shall be located in any county of this State, the location to be determined by a vote of the electors at large at any general election, and that the directors and superintendents of the same shall be elected by the people.

SEC. 5. The respective counties of the State shall provide in some suitable manner for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society, under provision to be made by the laws of the general assembly.

ARTICLE IX.

MILITIA.

SECTION 1. The governor shall be the commander-in-chief of the military forces of the State, excepting when these forces shall be actually in the service of the United States, and shall have power to call out any part or the whole of said military forces to aid in the execution of the laws, to suppress insurrection, and to repel invasion.

SEC. 2. All male citizens of this State between the ages of eighteen and forty-five years, excepting those who are conscientiously opposed to bearing arms and such others as may be by law exempted, shall be enrolled in the militia, and held to perform such military duty as by law may be required.

SEC. 3. The general assembly shall provide by law for organizing and disciplining the militia in such manner as it shall deem expedient.

ARTICLE X.

PUBLIC DEBT.

SECTION 1. No money shall be paid out of the treasury, except in pursuance of an appropriation by law.

SEC. 2. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

SEC. 3. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never, in the aggregate, exceed one hundred thousand dollars, unless authorized by a direct vote of the people at a general election. Every such debt shall be authorized by law, and every such law shall provide for the payment of the annual interest of such debt, and the principal within ten years from the passage of such law; and such appropriation shall not be repealed until the principal and interest shall have been wholly paid.

SEC. 4. The legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized or repayment of the debt thereby created.

SEC. 5. No scrip, certificate, or other evidence of State debt whatever shall be issued, except for such debts as are authorized by the third and fourth sections of this article.

ARTICLE XI.

FINANCE AND TAXATION.

SECTION 1. The levying of taxes by the poll is grievous and oppressive; therefore the general assembly shall never levy a poll-tax for county or State purposes.

SEC. 2. Laws shall be passed taxing, by a uniform rule, all real and personal prop-

city, according to its true value in money, but by taxing real, personal, and other property used exclusively for educational purposes, houses used exclusively for public worship, not exceeding fifty thousand dollars in value, institutions of public charity, public and municipal property used exclusively for public and municipal purposes, and personal property to an amount not exceeding in value two hundred dollars for each head of a family, may, by general laws, be exempted from taxation; but all such laws shall be subject to alteration or repeal, and the value of all such property so exempted shall, from time to time, be ascertained and published and may be directed by law.

SEC. 3. The general assembly shall provide for raising revenue sufficient to defray the expenses of the State for each year, and also a sufficient sum to pay the interest and such part of the principal of a State debt, if any such debt shall accrue, as may be directed by law.

SEC. 4. No tax shall be levied except in pursuance of law; and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 5. The State shall never contract any debt for purposes of internal improvements.

SEC. 6. In the passage in either house of the general assembly of any law which imposes, continues, or renews a tax, or makes, continues, or renews an appropriation of public or trust moneys, or to release, discharge, or commute a claim or demand of the State, the vote shall be taken by yeas and nays, which shall be duly entered on the journal; and three-fifths of all the members elected to such house shall, in all such cases, be requisite to constitute a quorum.

ARTICLE XII.

COUNTIES AND COUNTY AND TOWNSHIP OFFICERS.

SECTION 1. The general assembly shall provide by law for submitting to the people of each county, at an annual election, the question of the location of county-seats; and the general assembly may change the lines of counties, but shall, by law, submit such proposed alterations to the electors of the county or counties affected thereby at a general election; said alterations to be made to township-lines as far as practicable.

SEC. 2. The general assembly shall provide by law for the creation and election of county, city, town, and township officers.

SEC. 3. All officers whose election or appointment is not provided for by this constitution shall be elected by the people, or appointed as the general assembly may by law direct.

SEC. 4. Provision shall be made by law for the removal, for misconduct or malversation in office, of all officers whose powers and duties are not local or legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removal.

SEC. 5. The legislature may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this constitution.

ARTICLE XIII.

ELECTIONS.

SECTION 1. All elections shall be free and equal.

SEC. 2. Electors shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance on elections, and in going to and returning from them.

SEC. 3. All elections by the people shall be by ballot, and all elections by the general assembly, or by either branch thereof, shall be *viva voce*.

SEC. 4. All general elections shall be held on the Tuesday next succeeding the first Monday in November of each year.

SEC. 5. Returns of elections for members of Congress, the general assembly, and all other officers not otherwise provided for, shall be made to the secretary of state, in such manner as may be prescribed by law.

ARTICLE XIV.

CORPORATIONS.

SECTION 1. Corporations may be created under general laws, but shall not be created by special acts, except for municipal purposes. All general laws and special acts authorizing or creating corporations may be altered from time to time or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liability of the stockholders and other means as shall be prescribed by law, and each stockholder of a corporation or joint-stock association, except corporations for charitable purposes and railroad corporations, shall be individually liable over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock.

SEC. 3. The property of corporations, except for charitable and religious purposes, now existing and to be hereafter created, shall be subject to taxation the same as the property of individuals.

SEC. 4. All real estate or other property of religious corporations shall vest in trustees, whose election shall be by the members of such corporation.

SEC. 5. The general assembly shall provide for the organization of cities and villages by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent the abuse of such power.

SEC. 6. The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue, and shall be subject to be sued, in all courts the same as natural persons.

ARTICLE XV.

JURISPRUDENCE.

SECTION 1. The general assembly, at its first session under this constitution, shall constitute a commission, to consist of three persons not members of the senate or house of representatives, whose duty it shall be to revise, reform, simplify, and abridge the rules of practice, pleading, and proceeding in the courts of record of this State, abolishing the forms of action known to the common law, and distinctions as to form between proceedings at law and in equity.

SEC. 2. The proceedings of the commissioners shall be reported to and be subject to the action of the general assembly.

SEC. 3. All the proceedings of the courts of this State shall be instituted and conducted in the English language, avoiding, as far as practicable, the use of technical terms.

ARTICLE XVI.

MISCELLANEOUS.

SECTION 1. No person shall be taken, imprisoned, or disseized of his freehold, outlawed, exiled, or in any manner deprived of his life, liberty, or property, but by the judgment of his peers and the law of the land.

SEC. 2. The printing of the laws and journals, bills, legislative documents, and papers for each branch of the general assembly, and all printing for the executive and other departments of State, shall be let to the lowest responsible bidder by such officers, and in such manner as shall be prescribed by law.

SEC. 3. The general assembly shall provide by law for the protection of the rights of women, married and single, in the acquiring and possessing of property, real, personal, and mixed, separate and apart from the husband or other person; and shall also provide for the equal rights of women in the protection, with the husband, of their children during their minority; also shall provide for the securing of a homestead, which, without the consent of the wife, she cannot be divested of.

SEC. 4. No person shall be elected or appointed to any office in this State unless he possesses the qualifications of an elector at the time of his election or appointment.

SEC. 5. There shall be established, in the secretary of state's office, a bureau of statistics and agriculture, under such regulations as may be prescribed by law, and provision shall be made by the general assembly for the organization and encouragement of State and county agricultural associations.

SEC. 6. Lotteries, gift-enterprises, and the sale of lottery and gift-enterprise tickets, for any purpose whatever, shall be forever prohibited in the State.

SEC. 7. A homestead of one hundred and sixty acres of land, or in lieu thereof a house and lot, or other property not exceeding in value two thousand dollars, belonging to any one family, shall by law be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife in cases where that relation exists; but no property shall be exempt from sale for taxes or for the payment of obligations contracted for its purchase.

SEC. 8. This State shall have jurisdiction concurrent with the State of Missouri on the Missouri River, so far as the said river may be the common boundary of the two States.

SEC. 9. For the purpose of preserving the public health, shall have power to pass general sanitary laws.

SEC. 10. No lease or grant of agricultural land for a longer period than twelve years, hereafter to be made, in which shall be reserved any rent or service of any kind, shall be valid; and all fines, quarter sales, or other like restraints upon transfer, reserved in any lease of land, hereafter to be made, shall be void: *Provided*, That this article shall in nowise interfere with the disposition of the school-lands of the State.

SEC. 11. In all cases where it shall be necessary to sell any of the lands granted by Congress, said sales shall not be made without one year's notice, through publication in the county or counties where the lands lie, and an advertisement in two or more central newspapers of the State, and there shall be a valuation of said lands by disinterested persons, and no lands shall be sold at a less price than the valuation.

ARTICLE XVII.

BANKS AND CURRENCY.

SECTION 1. No bank shall be established otherwise than under a general banking-law.

SEC. 2. If the general assembly shall enact a general banking-law, such law shall provide for the registry and countersigning, by the auditor of the State, of all bank-notes or paper-credits designed to be circulated as money.

SEC. 3. It shall be further provided that such bank-notes or paper-credits shall be amply secured by the deposit, with the proper officer of state, of bonds of interest-paying States or the United States.

SEC. 4. All bills or notes issued as money shall be at all times redeemable in gold or silver.

SEC. 5. Holders of bank-notes shall be entitled, in case of insolvency, to preference of specie payment over all other creditors.

SEC. 6. The State shall not be a stockholder in any bank or banking institution.

SEC. 7. All banks shall be required to keep officers and proper offices, for the issue and redemption of their paper, at some convenient point within the State.

SEC. 8. Any general banking law passed by the general assembly of the State may at any time be altered, amended, or repealed.

SEC. 9. No general banking law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State, at some general election, and have been approved by a majority of all the votes given on that subject at such election.

ARTICLE XVIII.

AMENDMENTS.

SECTION 1. Propositions for the amendment of this constitution may be made by either branch of the general assembly; and if three-fifths of all the members elected to each house shall concur therein, such proposed amendments shall be entered on the journals, with the yeas and nays; and the secretary of state shall cause the same to be published in at least one newspaper in each county of the State where a newspaper is published for three months preceding the next election for senators and representatives, at which time the same shall be submitted to the electors for their approval or rejection; and if a majority of the electors voting on said amendments at said election shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 2. Whenever three-fifths of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the general assembly for or against a convention; and if a majority of the electors voting on said amendments at said election shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately.

SEC. 3. Whenever three-fifths of the members elected to each branch of the general assembly shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members of the general assembly for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the general assembly shall, at its next regular session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives, and shall be chosen in the same manner, and shall meet within three months after their election at the capital of the State, for the purpose aforesaid.

SEC. 4. At the general election to be held in the year one thousand eight hundred and sixty-three, and in each tenth year thereafter, the question, "Shall there be a convention to revise, alter, or amend the constitution?" shall be submitted to the electors of the State; and in case a majority of the electors voting at said election shall decide in favor of a convention, the general assembly, at its next regular session, shall provide by law for the election of delegates and the assembling of such convention, as provided in the preceding section; but no amendment or revision of this constitution, agreed upon by any convention in pursuance of this article, shall take effect until the same shall have been submitted to the electors of the State, and adopted by a majority of those voting thereon.

SCHEDULE.

SECTION 1. In order that no inconvenience may arise from the change from a territorial to a State government, it is declared that no existing rights, suits, prosecutions, (except for political offences,) claims, or contracts, shall be affected by a change in the form of government, except as otherwise declared in this constitution. But no debt of the Territory shall be assumed by the State, except by a law passed by a vote of two-thirds of each branch of the general assembly.

SEC. 2. This constitution shall be submitted to a vote of the people, for approval or rejection, on the third Tuesday of May, one thousand eight hundred and fifty-eight. The vote shall be by ballot, and those in favor of the constitution shall write or print on their ballots the words "For the constitution," and those opposed to the constitution shall write or print upon their ballots the words "Against the constitution." Said election shall be conducted according to the provisions of section thirteen of an act of the legislature of the Territory of Kansas, passed February —, one thousand eight hundred and fifty-eight, entitled "An act to provide for the election of delegates to a convention to frame a State constitution."

SEC. 3. At the same time and place, and under the provisions of the section aforesaid, an election shall be held for members of the general assembly, for State officers, for judges, and for members of Congress to represent the State of Kansas in the Thirty-fifth Congress of the United States.

SEC. 4. If this constitution, upon being submitted to the people, shall be approved by a majority of the legal votes cast thereon, a copy of the same, certified by the president and secretary of the convention, together with the memorial framed by the convention, asking admission into the Union, and a certified statement of the vote on the ratification thereof, shall be transmitted as soon as practicable by the governor, president of the council, and speaker of the house of representatives of the Territory of Kansas, or any two of them, to the President and Congress of the United States.

SEC. 5. Provided this constitution shall be ratified by the people, then, upon the admission of Kansas into the Union as a State, this constitution shall be in full force, the State officers shall immediately enter upon the performance of their duties, and the governor shall immediately, by proclamation, convene the general assembly.

SEC. 6. The members of the first general assembly shall hold their offices until and including December 31, one thousand eight hundred and fifty-nine.

SEC. 7. The State officers and supreme and district judges first elected under the constitution shall hold their respective offices for the same length of time as though their term of office commenced on January 1, one thousand eight hundred and fifty-nine.

SEC. 8. The governor is authorized to adopt a seal, to be the seal of the State of Kansas, until otherwise provided for by law.

SEC. 9. Until otherwise provided for by law, the State shall be divided into senatorial districts, and senators appointed to them as follows: The first district shall consist of Leavenworth County, and shall be entitled to three senators; the second district shall consist of Atchison County, and shall be entitled to one senator; the third district shall consist of Doniphan County, and shall be entitled to two senators; the fourth district shall consist of Jefferson County, and be entitled to one senator; the fifth district shall consist of the counties of Brown and Calhoun, and shall be entitled to one senator; the sixth district shall consist of the counties of Nemaha, Marshall, and Washington, and shall be entitled to one senator; the seventh district shall consist of the counties of Pottawatomie and Richardson, and shall be entitled to one senator; the eighth district shall consist of the counties of Riley, Clay, Dickinson, Arapahoe, and all the western part of Kansas not otherwise attached, and shall be entitled to one senator; the ninth district shall consist of the counties of Breckenridge, Wise, and Davis, and shall be entitled to one senator; the tenth district shall consist of the counties of Shawnee and Weller, and shall be entitled to two senators; the eleventh district shall consist of the counties of Butler, Hunter, Woodson, Greenwood, Madison, Godfrey, and Wilson, and shall be entitled to one senator; the twelfth district shall consist of the county of Coffey, and shall be entitled to one senator; the thirteenth district shall consist of the county of Douglas, and shall be entitled to two senators; the fourteenth district shall consist of the county of Johnson, and be entitled to one senator; the fifteenth district shall consist of the county of Lykins, and be entitled to one senator; the sixteenth district shall consist of the county of Franklin, and be entitled to one senator; the seventeenth district shall consist of the county of Anderson, and be entitled to one senator; the eighteenth district shall consist of the county of Linn, and shall be entitled to one senator; the nineteenth

district shall consist of the county of Bourbon, and shall be entitled to one senator, the twentieth district shall consist of the counties of Allen, Dorn, and McGee, and shall be entitled to one senator.

SEC. 10. The State shall be divided into representative districts, and members apportioned thereto as follows: First district, Leavenworth County, ten members; second, Atchison, three; third, Doniphan, five; fourth, Jefferson, three; fifth, Brown, two; sixth, Nemaha, two; seventh, Pottawatomie, two; eighth, Calhoun, one; ninth, Marshall and Washington, one; tenth, Riley, three; eleventh, Clay and Dickinson, one; twelfth, Davis, one; thirteenth, Wise, one; fourteenth, Butler and Hunter, one; fifteenth, Richardson, one; sixteenth, Breckenridge, two; seventeenth, Madison, one; eighteenth, Greenwood, one; nineteenth, Woodson, one; twentieth, Coffey, two; twenty-first, Weller, one; twenty-second, Shawnee, four; twenty-third, Douglas, seven; twenty-fourth, Johnson, three; twenty-fifth, Lykins, three; twenty-sixth, Linn, three; twenty-seventh, Franklin, two; twenty-eighth, Anderson, two; twenty-ninth, Allen, one; thirtieth, Bourbon, three; thirty-first, McGee, Dorn, Wilson, and Godfrey, one; district number thirty-two, to consist of all the western part of Kansas not otherwise attached, including the county of Arapahoe, one member.

SEC. 11. The general assembly, at its first session, shall provide for receiving proposals for the location of the seat of government, and shall publish such proposals, and also a plan for the purchase of a site by the State, and submit them to a full and fair vote of the people at the first general election after such session; and if no proposal or plan submitted shall receive a majority of all the votes cast, then they shall be submitted at each subsequent and general election until such choice shall be made; and when a proposal or plan shall be adopted, the legislature shall provide for the location at the place or in the manner designated, and for the application of the profits which may accrue to the State therefrom, to the support of the benevolent institutions of the State; and when the seat of government shall have been thus located, it shall not be changed but by a law ratified by a direct vote of the people; and until the selection provided for in this section shall be made, Topeka shall be the seat of government.

SEC. 12. The first general assembly shall provide by law for the submission of the question of universal suffrage to a vote of the people at the first general election of the members of the general assembly: *Provided*, That the qualifications of voters at the election shall be the same as at the vote on the submission of the constitution.

I hereby certify that the above is a correct copy of the constitution adopted by the convention at Leavenworth, April 3, 1858, from the original draft now in my possession.

M. F. CONWAY, *President*.

Attest:

SAM'L F. TAPPAN, JR., *Secretary*.

CONSTITUTION OF KANSAS—1859.*

ORDINANCE.

Whereas the Government of the United States is the proprietor of a large portion of the lands included in the limits of the State of Kansas as defined by this constitution; and whereas the State of Kansas will possess the right to tax said lands for purposes of government, and for other purposes: Now, therefore, be it ordained by the people of Kansas that the right of the State of Kansas to tax such lands is relinquished forever, and the State of Kansas will not interfere with the title of the United

* This constitution was adopted at a convention which met at Wyandotte July 5, 1859, and completed its labors July 29, 1859. It was submitted to the people of Kansas October 4, 1859, and ratified, receiving 10,421 votes against 5,530 votes.

States to such lands, nor with any regulation of Congress in relation thereto, nor tax non-residents higher than residents: *Provided always*, That the following conditions be agreed to by Congress:

SECTION 1. Sections numbered sixteen and thirty six in each township in the State, including Indian reservations and trust-lands, shall be granted to the State for the exclusive use of common schools; and when either of said sections, or any part thereof, has been disposed of, other lands of equal value, as nearly contiguous thereto as possible, shall be substituted therefor.

SEC. 2. That seventy-two sections of land shall be granted to the State for the erection and maintenance of a State university.

SEC. 3. That thirty-six sections shall be granted to the State for the erection of public buildings.

SEC. 4. That seventy-two sections shall be granted to the State for the erection and maintenance of charitable and benevolent institutions.

SEC. 5. That all salt-springs, not exceeding twelve in number, with six sections of land adjacent to each, together with all mines, with the lands necessary for their full use, shall be granted to the State for works of public improvement.

SEC. 6. That 5 per centum of the proceeds of the public lands in Kansas, disposed of after the admission of the State into the Union, shall be paid to the State for a fund, the income of which shall be used for the support of common schools.

SEC. 7. That the five hundred thousand acres of land to which the State is entitled under the act of Congress entitled "An act to appropriate the proceeds of the sales of public lands and grant preemption-rights," approved September 4, 1841, shall be granted to the State for the support of common schools.

SEC. 8. That the lands hereinbefore mentioned shall be selected in such manner as may be prescribed by law; such selections to be subject to the approval of the Commissioner of the General Land-Office of the United States.

PREAMBLE.

We, the people of Kansas, grateful to Almighty God for our civil and religious privileges, in order to insure the full enjoyment of our rights as American citizens, do ordain and establish this constitution of the State of Kansas, with the following boundaries, to wit: Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same; thence running west on said parallel to the twenty-fifth meridian of longitude west from Washington; thence north on said meridian to the fortieth parallel of north latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south, with the western boundary of said State, to the place of beginning.

BILL OF RIGHTS.

SECTION 1. All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness.

SEC. 2. All political power is inherent in the people, and all free governments are founded on their authority, and are instituted for their equal protection and benefit. No special privileges or immunities shall ever be granted by the legislature, which may not be altered, revoked, or repealed by the same body; and this power shall be exercised by no other tribunal or agency.

SEC. 3. The people have the right to assemble, in a peaceable manner, to consult for their common good, to instruct their representatives, and to petition the government, or any department thereof, for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defence and security; but standing armies in time of peace are dangerous to liberty, and shall not be tolerated, and the military shall be in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this State; and no involuntary servitude, except for the punishment of crime, whereof the party shall have been duly convicted.

SEC. 7. The right to worship God according to the dictates of conscience shall never be infringed; nor shall any person be compelled to attend or support any form of worship; nor shall any control of, or interference with, the rights of conscience be permitted; nor any preference be given by law to any religious establishment or mode of worship. No religious test or property qualification shall be required for any office of public trust, nor for any vote at any election; nor shall any person be incompetent to testify on account of religious belief.

SEC. 8. The right to the writ of *habeas corpus* shall not be suspended unless the public safety requires it in case of invasion or rebellion.

SEC. 9. All persons shall be bailable by sufficient sureties, except for capital offences where proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

SEC. 10. In all prosecutions, the accused shall be allowed to appear and defend in person or by counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face, and to have compulsory process to compel the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed. No person shall be a witness against himself, or be twice put in jeopardy for the same offence.

SEC. 11. The liberty of the press shall be inviolate; and all persons may freely speak, write, or publish their sentiments on all subjects, being responsible for the abuse of such right; and in all civil or criminal actions for libel, the truth may be given in evidence to the jury, and if it shall appear that the alleged libellous matter was published for justifiable ends, the accused party shall be acquitted.

SEC. 12. No person shall be transported from the State for any offence committed within the same, and no conviction in the State shall work a corruption of blood or forfeiture of estate.

SEC. 13. Treason shall consist only in levying war against the State, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the overt act, or confession in open court.

SEC. 14. No soldier shall, in time of peace, be quartered in any house without the consent of the occupant, nor in time of war, except as prescribed by law.

SEC. 15. The right of the people to be secure in their persons and property against unreasonable searches and seizures shall be inviolate; and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons or property to be seized.

SEC. 16. No person shall be imprisoned for debt, except in cases of fraud.

SEC. 17. No distinction shall ever be made between citizens and aliens in reference to the purchase, enjoyment, or descent of property.

SEC. 18. All persons, for injuries suffered in person, reputation, or property, shall have remedy by due course of law, and justice administered without delay.

SEC. 19. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by the State.

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

ARTICLE I.

EXECUTIVE.

SECTION 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, and superintendent of public instruction, who shall be chosen by the electors of the State at the time and place of voting for members of the legislature, and shall hold their offices for the term of two years from the second Monday of January, next after their election, and until their successors are elected and qualified.

SEC. 2. Until otherwise provided by law, an abstract of the returns of every election, for the officers named in the foregoing section, shall be sealed up and trans-

mitted by the clerks of the boards of canvassers of the several counties to the secretary of state, who, with the lieutenant governor and attorney-general, shall constitute a board of State canvassers, whose duty it shall be to meet at the State capital on the second Tuesday of December succeeding each election for State officers, and canvass the vote for such officers, and proclaim the result; but in case any two or more have an equal and the highest number of votes, the legislature shall by joint ballot choose one of said persons so having an equal and the highest number of votes for said office.

SEC. 3. The supreme executive power of the State shall be vested in a governor, who shall see that the laws are faithfully executed.

SEC. 4. He may require information in writing from the officers of the executive department upon any subject relating to their respective duties.

SEC. 5. He may, on extraordinary occasions, convene the legislature by proclamation, and shall, at the commencement of every session, communicate in writing such information as he may possess in reference to the condition of the State, and recommend such measures as he may deem expedient.

SEC. 6. In case of disagreement between the two houses in respect to the time of adjournment, he may adjourn the legislature to such time as he may think proper, not beyond its regular meeting.

SEC. 7. The pardoning power shall be vested in the governor, under regulations and restrictions prescribed by law.

SEC. 8. There shall be a seal of the State, which shall be kept by the governor and used by him officially, and which shall be The Great Seal of Kansas.

SEC. 9. All commissions shall be issued in the name of the State of Kansas, signed by the governor, countersigned by the secretary of state, and sealed with the great seal.

SEC. 10. No member of Congress, or officer of the State, or of the United States, shall hold the office of governor, except as herein provided.

SEC. 11. In case of the death, impeachment, resignation, removal, or other disability of the governor, the power and duties of the office for the residue of the term, or until the disability shall be removed, shall devolve upon the president of the senate.

SEC. 12. The lieutenant-governor shall be president of the senate, and shall vote only when the senate is equally divided. The senate shall choose a president *pro tempore*, to preside in case of his absence or impeachment, or when he shall hold the office of governor.

SEC. 13. If the lieutenant-governor, while holding the office of governor, shall be impeached or displaced, or shall resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor until the vacancy is filled, or the disability removed; and if the president of the senate, for any of the above causes, shall be rendered incapable of performing the duties pertaining to the office of governor, the same shall devolve upon the speaker of the house of representatives.

SEC. 14. Should either the secretary of state, auditor, treasurer, attorney-general, or superintendent of public instruction, become incapable of performing the duties of his office for any of the causes specified in the thirteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor is elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the unexpired term.

SEC. 15. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

SEC. 16. The officers of the executive department, and of all public State institutions, shall, at least ten days preceding each regular session of the legislature, severally report to the governor, who shall transmit such reports to the legislature.

ARTICLE II.

LEGISLATIVE.

SECTION 1. The legislative power of this State shall be vested in a house of representatives and senate.

SEC. 2. The first house of representatives under this constitution shall consist of seventy-five members, who shall be chosen for one year. The first senate shall consist of twenty-five members, who shall be chosen for two years. After the first election, the number of senators and members of the house of representatives shall be regulated by law, but shall never exceed one hundred representatives and thirty-three senators.

SEC. 3. The members of the legislature shall receive as compensation for their services the sum of three dollars for each day's actual service at any regular or special session, and fifteen cents for each mile travelled by the usual route in going to and returning from the place of meeting; but such compensation shall not in the aggregate exceed the sum of two hundred and forty dollars for each member as *per diem* allowance for the first session held under this constitution, nor more than one hundred and fifty dollars for each session thereafter, nor more than ninety dollars for any special session.

SEC. 4. No person shall be a member of the legislature who is not at the time of his election a qualified voter of, and a resident in, the county or district for which he is elected.

SEC. 5. No member of Congress or officer of the United States shall be eligible to a seat in the legislature. If any person, after his election to the legislature, be elected to Congress, or elected or appointed to any office under the United States, his acceptance thereof shall vacate his seat.

SEC. 6. No person convicted of embezzlement or misuse of the public funds shall have a seat in the legislature.

SEC. 7. All State officers, before entering upon their respective duties, shall take and subscribe an oath or affirmation to support the Constitution of the United States and the constitution of this State, and faithfully to discharge the duties of their respective offices.

SEC. 8. A majority of each house shall constitute a quorum. Each house shall establish its own rules, and shall be judge of the elections, returns, and qualifications of its own members.

SEC. 9. All vacancies occurring in either house shall be filled for the unexpired term by election.

SEC. 10. Each house shall keep and publish a journal of its proceedings. The yeas and nays shall be taken and entered immediately on the journal upon the final passage of every bill or joint resolution. Neither house, without the consent of the other, shall adjourn for more than two days, Sundays excepted.

SEC. 11. Any member of either house shall have the right to protest against any act or resolution; and such protest shall, without delay or alteration, be entered on the journal.

SEC. 12. All bills shall originate in the house of representatives, and be subject to amendment or rejection by the senate.

SEC. 13. A majority of all the members elected to each house, voting in the affirmative, shall be necessary to pass any bill or joint resolution.

SEC. 14. Every bill and joint resolution passed by the house of representatives and senate shall, within two days thereafter, be signed by the presiding officers, and presented to the governor; if he approve, he shall sign it; but if not, he shall return it to the house of representatives, which shall enter the objections at large upon its journal, and proceed to reconsider the same. If, after such reconsideration, two-thirds of the members elected shall agree to pass the bill or resolution, it shall be sent, with the objections, to the senate, by which it shall likewise be reconsidered; and, if approved by two-thirds of all the members elected, it shall become a law. But in all such

cases the vote shall be taken by yeas and nays, and entered upon the journal of each house. If any bill shall not be returned within three days (Sundays excepted) after it shall have been presented to the governor, it shall become a law in like manner as if he had signed it, unless the legislature by its adjournment prevent its return, in which case it shall not become a law.

SEC. 15. Every bill shall be read on three separate days in each house, unless in case of emergency. Two-thirds of the house where such bill is pending may, if deemed expedient, suspend the rules; but the reading of the bill by sections, on its final passage, shall in no case be dispensed with.

SEC. 16. No bill shall contain more than one subject, which shall be clearly expressed in its title; and no law shall be revived or amended unless the new act contain the entire act revived or the section or sections amended, and the section or sections so amended shall be repealed.

SEC. 17. All laws of a general nature shall have a uniform operation throughout the State; and in all cases where a general law can be made applicable, no special law shall be enacted.

SEC. 18. All power to grant divorces is vested in the district courts, subject to regulation by law.

SEC. 19. The legislature shall prescribe the time when its acts shall be in force, and shall provide for the speedy publication of the same; and no law of a general nature shall be in force until the same be published. It shall have the power to provide for the election or appointment of all officers, and the filling of all vacancies not otherwise provided for in this constitution.

SEC. 20. The enacting clause of all laws shall be, "*Be it enacted by the legislature of the State of Kansas;*" and no law shall be enacted except by bill.

SEC. 21. The legislature may confer upon tribunals transacting the county business of the several counties such powers of local legislation and administration as it shall deem expedient.

SEC. 22. For any speech or debate in either house the members shall not be questioned elsewhere. No member of the legislature shall be subject to arrest, except for felony or breach of the peace, in going to or returning from the place of meeting, or during the continuance of the session; neither shall he be subject to the service of any civil process during the session, nor for fifteen days previous to its commencement.

SEC. 23. The legislature, in providing for the formation and regulation of schools, shall make no distinction between the rights of males and females.

SEC. 24. No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law; and no appropriation shall be for a longer term than one year.

SEC. 25. All sessions of the legislature shall be held at the State capital, and all regular sessions shall commence annually on the second Tuesday of January.

SEC. 26. The legislature shall provide for taking an enumeration of the inhabitants of the State at least once in ten years. The first enumeration shall be taken A. D. 1865.

SEC. 27. The house of representatives shall have the sole power to impeach. All impeachments shall be tried by the Senate; and, when sitting for that purpose, the senators shall take an oath to do justice according to the law and the evidence. No person shall be convicted without the concurrence of two-thirds of the senators elected.

SEC. 28. The governor, and all other officers under this constitution, shall be subject to impeachment for any misdemeanor in office; but judgment in all such cases shall not be extended further than to removal from office and disqualification to hold any office of profit, honor, or trust, under this constitution; but the party, whether acquitted or convicted, shall be liable to indictment, trial, judgment, and punishment according to law.

ARTICLE III.

JUDICIAL.

SECTION 1. The judicial power of this State shall be vested in a supreme court, district courts, probate courts, justices of the peace, and such other courts, inferior to the supreme court, as may be provided by law; and all courts of record shall have a seal, to be used in the authentication of all process.

SEC. 2. The supreme court shall consist of one chief justice and two associate justices, (a majority of whom shall constitute a quorum,) who shall be elected by the electors of the State at large, and whose term of office, after the first, shall be six years. At the first election a chief justice shall be chosen for six years, one associate justice for four years, and one for two years.

SEC. 3. The supreme court shall have original jurisdiction in proceedings in *quo warranto*, *mandamus*, and *habeas corpus*, and such appellate jurisdiction as may be provided by law. It shall hold one term each year at the seat of government, and such other terms at such places as may be provided by law, and its jurisdiction shall be coextensive with the State.

SEC. 4. There shall be appointed, by the justices of the supreme court, a reporter and clerk of said court, who shall hold their offices two years, and whose duties shall be prescribed by law.

SEC. 5. The State shall be divided into five judicial districts, in each of which there shall be elected, by the electors thereof, a district judge, who shall hold his office for the term of four years. District courts shall be held at such times and places as may be provided by law.

SEC. 6. The district courts shall have such jurisdiction in their respective districts as may be provided by law.

SEC. 7. There shall be elected in each organized county a clerk of the district court, who shall hold his office two years, and whose duties shall be prescribed by law.

SEC. 8. There shall be a probate court in each county, which shall be a court of record, and have such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound minds as may be prescribed by law, and shall have jurisdiction in cases of *habeas corpus*. This court shall consist of one judge, who shall be elected by the qualified voters of the county, and hold his office two years. He shall be his own clerk, and shall hold court at such times and receive for compensation such fees as may be prescribed by law.

SEC. 9. Two justices of the peace shall be elected in each township, whose term of office shall be two years, and whose powers and duties shall be prescribed by law. The number of justices of the peace may be increased in any township by law.

SEC. 10. All appeals from probate courts and justices of the peace shall be to the district court.

SEC. 11. All the judicial officers provided for by this article shall be elected at the first election under this constitution, and shall reside in their respective townships, counties, or districts during their respective terms of office. In case of vacancy in any judicial office, it shall be filled by appointment of the governor until the next regular election that shall occur more than thirty days after such vacancy shall have happened.

SEC. 12. All judicial officers shall hold their offices until their successors shall have qualified.

SEC. 13. The justices of the supreme court and judges of the district courts shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be increased during their respective terms of office: *Provided*, Such compensation shall not be less than fifteen hundred dollars to each justice or judge each year; and such justices or judges shall receive no fees or perquisites, nor hold any other office of profit or trust, under the authority of the State or the United States, during the term of office for which such justices and judges shall be

elected, nor practice law in any of the courts in the State during their continuance in office.

SEC. 14. Provision may be made by law for the increase of the number of judicial districts whenever two thirds of the members of each house shall concur. Such districts shall be formed of compact territory and bounded by county lines, and such increase shall not vacate the office of any judge.

SEC. 15. Justices of the supreme court and judges of the district courts may be removed from office by resolution of both houses, if two thirds of the members of each house concur. But no such removal shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard.

SEC. 16. The several justices and judges of the courts of record in this State shall have such jurisdiction at chambers as may be provided by law.

SEC. 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the State.

SEC. 18. Until otherwise provided by law, the first district shall consist of the counties of Wyandotte, Leavenworth, Jefferson, and Jackson. The second district shall consist of the counties of Atchison, Doniphan, Brown, Nemaha, Marshall, and Washington. The third district shall consist of the counties of Pottawatomie, Riley, Clay, Dickinson, Davis, Waubesaunsee, and Shawnee. The fourth district shall consist of the counties of Douglas, Johnson, Lykins, Franklin, Anderson, Linn, Bourbon, and Allen. The fifth district shall consist of the counties of Osage, Coffey, Woodson, Greenwood, Madison, Breckinridge, Morris, Chase, Butler, and Hunter.

SEC. 19. New or unorganized counties shall by law be attached for judicial purposes to the most convenient judicial district.

SEC. 20. Provision shall be made by law for the selection, by the bar, of a *pro tempore* judge of the district court, when the judge is absent or otherwise unable or disqualified to sit in any case.

ARTICLE IV.

ELECTIONS.

SECTION 1. All elections by the people shall be by ballot, and all elections by the legislature shall be *viva voce*.

SEC. 2. General elections shall be held annually on the Tuesday succeeding the first Monday in November. Township elections shall be held on the first Tuesday in April, until otherwise provided by law.

ARTICLE V.

SUFFRAGE.

SECTION 1. Every white male person, of twenty-one years and upwards, belonging to either of the following classes, who shall have resided in Kansas six months next preceding any election, and in the township or ward in which he offers to vote at least thirty days next preceding such election, shall be deemed a qualified elector: 1st, citizens of the United States; 2d, persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.

SEC. 2. No person under guardianship, *non compos mentis*, or insane, shall be qualified to vote; nor any person convicted of treason or felony, unless restored to civil rights.

SEC. 3. No soldier, seaman, or marine in the Army or Navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of being stationed within the same; nor shall any soldier, seaman, or marine have the right to vote.

SEC. 4. The legislature shall pass such laws as may be necessary for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established.

SEC. 5. Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or shall go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

SEC. 6. Every person who shall have given or offered a bribe to procure his election shall be disqualified from holding office during the term for which he may have been elected.

SEC. 7. Electors, during their attendance at elections, and in going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony, or breach of the peace.

ARTICLE VI.

EDUCATION.

SECTION 1. The State superintendent of public instruction shall have the general supervision of the common-school funds and educational interest of the State, and perform such other duties as may be prescribed by law. A superintendent of public instruction shall be elected in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law.

SEC. 2. The legislature shall encourage the promotion of intellectual, moral, scientific, and agricultural improvement, by establishing a uniform system of common schools, and schools of a higher grade, embracing normal, preparatory, collegiate, and university departments.

SEC. 3. The proceeds of all lands that have been or may be granted by the United States to the State for the support of schools, and the five hundred thousand acres of land granted to the new States, under an act of Congress distributing the proceeds of public lands among the several States of the Union, approved September 4, A. D. 1841, and all estates of persons dying without heir or will, and such per cent. as may be granted by Congress on the sale of lands in this State, shall be the common property of the State, and shall be a perpetual school-fund, which shall not be diminished, but the interest of which, together with all the rents of the lands, and such other means as the legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of common schools.

SEC. 4. The income of the State school-funds shall be disbursed annually, by order of the State superintendent, to the several county treasurers, and thence to the treasurer of the several school-districts, in equitable proportion to the number of children and youth resident therein between the ages of five and twenty-one years: *Provided*, That no school-district in which a common school has not been maintained at least three months in each year shall be entitled to receive any portion of such funds.

SEC. 5. The school-lands shall not be sold unless such sale shall be authorized by a vote of the people at a general election; but, subject to revaluation every five years, they may be leased for any number of years, not exceeding twenty-five, at a rate established by law.

SEC. 6. All money which shall be paid by persons as an equivalent for exemption from military duty, the clear proceeds of estrays, ownership of which shall vest in the taker-up, and the proceeds of fines for any breach of the penal laws, shall be exclusively applied, in the several counties in which the money is paid or fines collected, to the support of common schools.

SEC. 7. Provision shall be made by law for the establishment, at some eligible and central point, of a State university, for the promotion of literature and the arts and sciences, including a normal and an agricultural department. All funds arising from the sale or rents of lands granted by the United States to the State for the support of a State university, and all other grants, donations, or bequests, either by the State or by individuals, for such purpose, shall remain a perpetual fund, to be called the

"university fund;" the interest of which shall be appropriated to the support of the State university.

SEC. 8. No religious sect or sects shall ever control any part of the common school or university funds of the State.

SEC. 9. The State superintendent of public instruction, secretary of state, and attorney-general shall constitute a board of commissioners for the management and investment of the school-funds. Any two of said commissioners shall be a quorum.

ARTICLE VII.

PUBLIC INSTITUTIONS.

SECTION 1. Institutions for the benefit of the insane, blind, and deaf and dumb, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law. Trustees of such benevolent institutions as may be hereafter created shall be appointed by the governor, by and with the advice and consent of the senate; and upon all nominations made by the governor the question shall be taken by yeas and nays and entered upon the journal.

SEC. 2. A penitentiary shall be established, the directors of which shall be appointed or elected, as prescribed by law.

SEC. 3. The governor shall fill any vacancy that may occur in the offices aforesaid, until the next session of the legislature, and until a successor to his appointee shall be confirmed and qualified.

SEC. 4. The respective counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society.

ARTICLE VIII.

MILITIA.

SECTION 1. The militia shall be composed of all able-bodied white male citizens between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States or of this State; but all citizens, of any religious denomination whatever, who, from scruples of conscience, may be averse to bearing arms, shall be exempted therefrom, upon such conditions as may be prescribed by law.

SEC. 2. The legislature shall provide for organizing, equipping, and disciplining the militia in such manner as it shall deem expedient, not incompatible with the laws of the United States.

SEC. 3. Officers of the militia shall be elected or appointed and commissioned in such manner as may be provided by law.

SEC. 4. The governor shall be commander-in-chief, and shall have power to call out the militia to execute the laws, to suppress insurrection, and to repel invasion.

ARTICLE IX.

COUNTY AND TOWNSHIP ORGANIZATION.

SECTION 1. The legislature shall provide for organizing new counties, locating county-seats, and changing county-lines; but no county-seat shall be changed without the consent of a majority of the electors of the county, nor any county organized, nor the lines of any county changed, so as to include an area of less than four hundred and thirty-two square miles.

SEC. 2. The legislature shall provide for such county and township officers as may be necessary.

SEC. 3. All county officers shall hold their offices for the term of two years, and

until their successors shall be qualified; but no person shall hold the office of sheriff or county treasurer for more than two consecutive terms.

SEC. 4. Township officers, except justices of the peace, shall hold their offices one year from the Monday next succeeding their election, and until their successors are qualified.

SEC. 5. All county and township officers may be removed from office, in such manner and for such cause as shall be prescribed by law.

ARTICLE X.

APPORTIONMENT.

SECTION 1. In the future apportionment of the State each organized county shall have at least one representative, and each county shall be divided into as many districts as it has representatives.

SEC. 2. It shall be the duty of the first legislature to make an apportionment, based upon the census ordered by the last legislative assembly of the Territory; and a new apportionment shall be made in the year 1866, and every five years thereafter, based upon the census of the preceding year.

SEC. 3. Until there shall be a new apportionment, the State shall be divided into election-districts; and the representatives and senators shall be apportioned among the several districts as follows, viz:

First district, Doniphan County, two senators and four representatives.

Second district, Atchison and Brown Counties, two senators and six representatives.

Third district, Nemaha, Marshall, and Washington Counties, one senator and two representatives.

Fourth district, Clay, Riley, and Pottawatomie Counties, one senator and four representatives.

Fifth district, Dickinson, Davis, and Waubensee Counties, one senator and three representatives.

Sixth district, Shawnee, Jackson, and Jefferson Counties, two senators and eight representatives.

Seventh district, Leavenworth County, three senators and nine representatives.

Eighth district, Douglas, Johnson, and Wyandotte Counties, four senators and thirteen representatives.

Ninth district, Lykins, Linn, and Bourbon Counties, three senators and nine representatives.

Tenth district, Allen, Anderson, and Franklin Counties, two senators and six representatives.

Eleventh district, Woodson and Madison Counties, one senator and two representatives.

Twelfth district, Coffey, Osage, and Breckinridge Counties, two senators and six representatives.

Thirteenth district, Morris, Chase, and Butler Counties, one senator and two representatives.

Fourteenth district, Arapahoe, Godfrey, Greenwood, Hunter, Wilson, Dorn, and McGee, one representative.

ARTICLE XI.

FINANCE AND TAXATION.

SECTION 1. The legislature shall provide for a uniform and equal rate of assessment and taxation; but all property used exclusively for State, county, municipal, literary, educational, scientific, religious, benevolent, and charitable purposes, and personal property to the amount of at least two hundred dollars for each family, shall be exempted from taxation.

SEC. 2. The legislature shall provide for taxing the notes and bills discounted or purchased, moneys loaned, and other property, effects, or dues of every description, (without deduction,) of all banks now existing, or hereafter to be created, and of all bankers; so that all property employed in banking shall always bear a burden of taxation equal to that imposed upon the property of individuals.

SEC. 3. The legislature shall provide, each year, for raising revenue, sufficient to defray the current expenses of the State.

SEC. 4. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object only such tax shall be applied.

SEC. 5. For the purpose of defraying extraordinary expenses and making public improvements, the State may contract public debts; but such debts shall never, in the aggregate, exceed one million dollars, except as hereinafter provided. Every such debt shall be authorized by law for some purpose specified therein, and the vote of a majority of all the members elected to each house, to be taken by the yeas and nays, shall be necessary to the passage of such law; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal thereof, when it shall become due; and shall specifically appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation shall not be repealed, nor the taxes postponed or diminished, until the interest and principal of such debts shall have been wholly paid.

SEC. 6. No debt shall be contracted by the State except as herein provided, unless the proposed law for creating such debt shall first be submitted to a direct vote of the electors of the State at some general election; and if such proposed law shall be ratified by a majority of all the votes cast at such general election, then it shall be the duty of the legislature next after such election to enact such law and create such debt, subject to all the provisions and restrictions provided in the preceding sections of this article.

SEC. 7. The State may borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

SEC. 8. The State shall never be a party in carrying on any works of internal improvement.

ARTICLE XII.

CORPORATIONS.

SECTION 1. The legislature shall pass no special act conferring corporate powers. Corporations may be created under general laws; but all such laws may be amended or repealed.

SEC. 2. Dues from corporations shall be secured by individual liability of the stockholders to an additional amount equal to the stock owned by each stockholder, and such other means as shall be provided by law; but such individual liabilities shall not apply to railroad corporations, nor corporations for religious or charitable purposes.

SEC. 3. The title to all property of religious corporations shall vest in trustees, whose election shall be by the members of such corporations.

SEC. 4. No right of way shall be appropriated to the use of any corporation until full compensation therefor be first made in money, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation.

SEC. 5. Provision shall be made by general law for the organization of cities, towns, and villages; and their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit shall be so restricted as to prevent the abuse of such power.

SEC. 6. The term corporations, as used in this article, shall include all associations and joint-stock companies having powers and privileges not possessed by individuals or partnerships; and all corporations may sue and be sued in their corporate name.

ARTICLE XIII.

BANKS AND CURRENCY.

SECTION 1. No bank shall be established otherwise than under a general banking-law.

SEC. 2. All banking-laws shall require, as collateral security for the redemption of the circulating notes of any bank organized under their provisions, a deposit with the auditor of state of the interest-paying bonds of the several States or of the United States, at the cash rates of the New York stock-exchange, to an amount equal to the amount of circulating notes which such bank shall be authorized to issue, and a cash deposit in its vaults of 10 per cent. of such amount of circulating notes; and the auditor shall register and countersign no more circulating bills of any bank than the cash-value of such bonds when deposited.

SEC. 3. Whenever the bonds pledged as collateral security for the circulation of any bank shall depreciate in value, the auditor of state shall require additional security, or curtail the circulation of such bank to such extent as will continue the security unimpaired.

SEC. 4. All circulating notes shall be redeemable in the money of the United States. Holders of such notes shall be entitled, in case of the insolvency of such banks, to preference of payment over all other creditors.

SEC. 5. The State shall not be a stockholder in any banking institution.

SEC. 6. All banks shall be required to keep offices and officers for the issue and redemption of their circulation, at a convenient place within the State, to be named on the circulating notes issued by such bank.

SEC. 7. No banking institution shall issue circulating notes of a less denomination than five dollars,

SEC. 8. No banking-law shall be in force until the same shall have been submitted to a vote of the electors of the State at some general election, and approved by a majority of all the votes cast at such election.

SEC. 9. Any banking-law may be amended or repealed.

ARTICLE XIV.

AMENDMENTS.

SECTION 1. Propositions for the amendment of this constitution may be made by either branch of the legislature; and if two-thirds of all the members elected to each house shall concur therein, such proposed amendments, together with the yeas and nays, shall be entered on the journal; and the secretary of state shall cause the same to be published in at least one newspaper in each county of the State where a newspaper is published, for three months preceding the next election for representatives, at which time the same shall be submitted to the electors for their approval or rejection; and if a majority of the electors voting on said amendments, at said election, shall adopt the amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to enable the electors to vote on each amendment separately; and not more than three propositions to amend shall be submitted at the same election.

SEC. 2. Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise, amend, or change this constitution, they shall recommend to the electors to vote at the next election of members to the legislature for or against a convention; and if a majority of all the electors voting at such election shall have voted for a convention, the legislature shall, at the next session, provide for calling the same.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. All officers whose election or appointment is not otherwise provided for shall be chosen or appointed as may be prescribed by law.

SEC. 2. The tenure of any office not herein provided for may be declared by law, when not so declared, such office shall be held during the pleasure of the authority making the appointment, but the legislature shall not create any office the tenure of which shall be longer than four years.

SEC. 3. Lotteries and the sale of lottery-tickets are forever prohibited.

SEC. 4. All public printing shall be let on contract, to the lowest responsible bidder, by such executive officers, and in such manner, as shall be prescribed by law.

SEC. 5. An accurate and detailed statement of the receipts and expenditures of the public moneys, and the several amounts paid, to whom, and on what account, shall be published, as prescribed by law.

SEC. 6. The legislature shall provide for the protection of the rights of women in acquiring and possessing property, real, personal, and mixed, separate and apart from the husband; and shall also provide for their equal rights in the possession of their children.

SEC. 7. The legislature may reduce the salaries of officers who shall neglect the performance of any legal duty.

SEC. 8. The temporary seat of government is hereby located at the city of Topeka, county of Shawnee. The first legislature under this constitution shall provide by law for submitting the question of the permanent location of the capital to a popular vote, and a majority of all the votes cast at some general election shall be necessary for such location.

SEC. 9. A homestead to the extent of one hundred and sixty acres of farming-land, or of one acre within the limits of an incorporated town or city, occupied as a residence by the family of the owner, together with all the improvements on the same, shall be exempted from forced sale under any process of law, and shall not be alienated without the joint consent of husband and wife, when that relation exists; but no property shall be exempt from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon: *Provided*, The provisions of this section shall not apply to any process of law obtained by virtue of a lien given by the consent of both husband and wife.

SCHEDULE.

SECTION 1. That no inconvenience may arise from the change from a territorial government to a permanent State government, it is declared by this constitution that all suits, rights, actions, prosecutions, recognizances, contracts, judgments, and claims, both as respects individuals and bodies-corporate, shall continue as if no change had taken place.

SEC. 2. All fines, penalties, and forfeitures, owing to the Territory of Kansas, or any county, shall inure to the use of the State or county. All bonds executed to the Territory, or any officer thereof, in his official capacity, shall pass over to the governor, or other officers of the State or county, and their successors in office, for the use of the State or county, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

SEC. 3. The governor, secretary, and judges, and all other officers, both civil and military, under the territorial government, shall continue in the exercise of the duties of their respective departments until the said officers are superseded under the authority of this constitution.

SEC. 4. All laws and parts of laws in force in the Territory at the time of the acceptance of this constitution by Congress, not inconsistent with this constitution, shall continue and remain in full force until they expire or shall be repealed.

SEC. 5. The governor shall use his private seal until a State seal is provided.

SEC. 6. The governor, secretary of state, auditor of state, treasurer of state, attorney-

general, and superintendent of public instruction, shall keep their respective offices at the seat of government.

SEC. 7. All records, documents, books, papers, moneys, and vouchers belonging and pertaining to the several territorial courts and offices, and to the several districts and county offices, at the date of the admission of this State into the Union, shall be disposed of in such manner as may be prescribed by law.

SEC. 8. All suits, pleas, complaints, and other proceedings pending in any court of record, or justice's court, may be prosecuted to final judgment and execution; and all appeals, writs of error, *certiorari*, injunctions, or other proceedings whatever, may progress and be carried on as if this constitution had not been adopted, and the legislature shall direct the mode in which suits, pleas, complaints, prosecutions, and other proceedings, and all papers, records, books, and documents connected therewith, may be removed to the courts established by this constitution.

SEC. 9. For the purpose of taking the vote of the electors of this Territory for the ratification or rejection of this constitution, an election shall be held in the several voting-precincts in this Territory on the first Tuesday in October, A. D. 1859.

SEC. 10. Each elector shall express his assent or dissent by voting a written or printed ballot labelled "For the constitution," or "Against the constitution."

SEC. 11. If a majority of all the votes cast at such election shall be in favor of the constitution, then there shall be an election held in the several voting-precincts on the first Tuesday in December, A. D. 1859, for the election of members of the first legislature, of all State, district, and county officers provided for in this constitution, and for a Representative in Congress.

SEC. 12. All persons having the qualifications of electors, according to the provisions of this constitution, at the date of each of said elections, and who shall have been duly registered according to the provisions of the registry law of this Territory, and none others, shall be entitled to vote at each of said elections.

SEC. 13. The persons who may be judges of the several voting-precincts of this Territory at the date of the respective elections in this schedule provided for shall be the judges of the respective elections herein provided for.

SEC. 14. The said judges of election, before entering upon the duties of their office, shall take and subscribe an oath faithfully to discharge their duties as such. They shall appoint two clerks of election, who shall be sworn by one of said judges faithfully to discharge their duties as such. In the event of a vacancy in the board of judges, the same shall be filled by the electors present.

SEC. 15. At each of the elections provided for in this schedule the polls shall be opened between the hours of nine and ten o'clock a. m., and closed at sunset.

SEC. 16. The tribunals transacting county business of the several counties shall cause to be furnished to the boards of judges in their respective counties two poll-books for each election hereinbefore provided for, upon which the clerks shall inscribe the name of every person who may vote at the said elections.

SEC. 17. After closing the polls at each of the elections provided for in this schedule, the judges shall proceed to count the votes cast, and designate the persons or objects for which they were cast, and shall make two correct tally-lists of the same.

SEC. 18. Each of the boards of judges shall safely keep one poll-book and tally-list, and the ballots cast at each election; and shall, within ten days after such election, cause the other poll-book and tally-list to be transmitted, by the hands of a sworn officer, to the clerk of the board transacting county business in their respective counties, or to which the county may be attached for municipal purposes.

SEC. 19. The tribunals transacting county business shall assemble at the county-seats of their respective counties on the second Tuesday after each of the elections provided for in this schedule, and shall canvass the votes cast at the elections held in the several precincts in their respective counties, and of the counties attached for municipal purposes. They shall hold in safe-keeping the poll-books and tally-lists of said elections, and shall, within ten days thereafter, transmit, by the hands of a sworn officer, to the president of this convention, at the city of Topeka, a certified transcript of the same, showing the number of votes cast for each person or object voted for at

each of the several precincts in their respective counties, and in the counties attached for municipal purposes, separately.

SEC. 20. The governor of the Territory, and the president and secretary of this convention, shall constitute a board of State canvassers, any two of whom shall be a quorum; and who shall, on the fourth Monday after each of the elections provided for in this schedule, assemble at said city of Topeka, and proceed to open and canvass the votes cast at the several precincts in the different counties of the Territory, and declare the result; and shall immediately issue certificates of election to all persons (if any) thus elected.

SEC. 21. Said board of State canvassers shall issue their proclamation not less than twenty days next preceding each of the elections provided for in this schedule. Said proclamation shall contain an announcement of the several elections, the qualifications of electors, the manner of conducting said elections and of making the returns thereof, as in this constitution provided, and shall publish said proclamation in one newspaper in each of the counties of the Territory in which a newspaper may be then published.

SEC. 22. The board of State canvassers shall provide for the transmission of authenticated copies of the constitution to the President of the United States, the President of the Senate, and Speaker of the House of Representatives.

SEC. 23. Upon official information having been by him received of the admission of Kansas into the Union as a State, it shall be the duty of the governor-elect under the constitution to proclaim the same, and to convene the legislature, and do all things else necessary to the complete and active organization of the State government.

SEC. 24. The first legislature shall have no power to make any changes in county-lines.

SEC. 25. At the election to be held for the ratification or rejection of this constitution, each elector shall be permitted to vote on the homestead provision contained in the article on "Miscellaneous," by depositing a ballot inscribed "For the homestead," or "Against the homestead;" and if a majority of all the votes cast at said election shall be against said provision, then it shall be stricken from the constitution.

RESOLUTIONS.

Resolved, That the Congress of the United States is hereby requested, upon the application of Kansas for admission into the Union, to pass an act granting to the State forty-five hundred thousand acres of land to aid in the construction of railroads and other internal improvements.

Resolved, That Congress be further requested to pass an act appropriating fifty thousand acres of land for the improvement of the Kansas River from its mouth to Fort Riley.

Resolved, That Congress be further requested to pass an act granting all swamp-lands within the State for the benefit of common schools.

Resolved, That Congress be further requested to pass an act appropriating five hundred thousand dollars, or, in lieu thereof, five hundred thousand acres of land, for the payment of the claims awarded to citizens of Kansas by the claim commissioners appointed by the governor and legislature of Kansas under an act of the territorial legislature passed February 7, 1859.

Resolved, That the legislature shall make provision for the sale or disposal of the lands granted to the State in aid of internal improvements, and for other purposes, subject to the same rights of preëmption to the settlers thereon as are now allowed by law to settlers on the public lands.

Resolved, That it is the desire of the people of Kansas to be admitted into the Union with this constitution.

Resolved, That Congress be further requested to assume the debt of this Territory.

Done in convention, at Wyandotte, this 29th day of July, A. D. 1859.

JAMES M. WINCHELL, *President*.

JOHN A. MARTIN, *Secretary*.

AMENDMENTS TO THE CONSTITUTION OF 1859.

RATIFIED 1861.

ART. XIII. SEC. 7. No banking institution shall issue circulating notes of a less denomination than five dollars.

RATIFIED 1864.

ART. II. SEC. 12. Bills may originate in either house, but may be amended or rejected by the other.

ART. V. SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State, or of the United States, or on the high seas, nor while a student in any seminary of learning, nor while kept at any almshouse or other asylum at public expense, nor while confined in any public prison; and the legislature may make provisions for taking the votes of electors who may be absent from their townships or wards in the volunteer military service of the United States, or the militia service of this State; but nothing herein contained shall be deemed to allow any soldier, seaman, or marine in the Regular Army or Navy of the United States the right to vote.

RATIFIED 1867.

ART. V. SEC. 2. No person under guardianship, *non compos mentis*, or insane; no person convicted of felony, unless restored to civil rights; no person who has been dishonorably discharged from the service of the United States, unless reinstated; no person guilty of defrauding the Government of the United States, or any of the States thereof; no person guilty of giving or receiving a bribe, or offering to give or receive a bribe; and no person who has ever voluntarily borne arms against the Government of the United States, or in any manner voluntarily aided or abetted in the attempted overthrow of said Government, except all persons who have been honorably discharged from the military service of the United States since the first day of April, A. D. 1861, provided that they have served one year or more therein, shall be qualified to vote or hold office in this State, until such disability shall be removed by a law passed by a vote of two-thirds of all the members of both branches of the legislature.

RATIFIED 1868.

ART. XV. SEC. 4. All public printing shall be done by a State printer, who shall be elected by the legislature, in joint session, and shall hold his office for two years, and until his successor shall be elected and qualified. The joint session of the legislature, for the election of a State printer, shall be on the third Tuesday of January, A. D. 1869, and every two years thereafter. All public printing shall be done at the capital, and the prices of the same shall be regulated by law.

RATIFIED 1875.

ART. II. SEC. 25. All sessions of the legislature shall be held at the State capital, and beginning with the session of eighteen hundred and seventy-seven, all regular sessions shall be held once in two years, commencing on the second Tuesday of January of each alternate year thereafter.

ART. XI. SEC. 3. The legislature shall provide, at each regular session, for raising sufficient revenue to defray the current expenses of the State for two years.

ART. II. SEC. 29. At the general election held in eighteen hundred and seventy-six, and thereafter, members of the house of representatives shall be elected for two years, and members of the senate shall be elected for four years.

RATIFIED 1876.

ART. IX. SEC. 3. All county officers shall hold their offices for the term of two years, and until their successors shall be qualified, except county commissioners, who shall hold their offices for the term of three years: *Provided*, That at the general election in the year eighteen hundred and seventy-seven the commissioner elected from district number one in each county shall hold his office for the term of one year, the commissioner elected from district number two in each county shall hold his office for the term of two years, and the commissioner elected from district number three in each county shall hold his office for the term of three years; but no person shall hold the office of sheriff or county treasurer for more than two consecutive terms.

KENTUCKY.*

THE THREE CHARTERS OF VIRGINIA—1606, 1609, 1611-'12.

[See "Virginia," pages 1888-1902.]

CONSTITUTION OF VIRGINIA—1776.

[See "Virginia," pages 1910-1912.]

THE TERRITORY SOUTH OF THE OHIO—1790.

[FIRST CONGRESS, SECOND SESSION.]

An Act for the government of the territory south of the river Ohio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the territory of the United States south of the river Ohio, for the purposes of temporary government, shall be one district; the inhabitants of which shall enjoy all the privileges, benefits, and advantages set forth in the ordinance of the late Congress for the government of the territory of the United States northwest of the river Ohio.† And the government of the said territory south of the Ohio shall be similar to that which is now exercised in the territory northwest of the Ohio; except so far as is otherwise provided in the conditions expressed in an act of Congress of the present session, entitled "An act to accept a cession of the claims of the State of North Carolina to a certain district of western territory."‡

SEC. 2. *And be it further enacted,* That the salaries of the officers, which the President of the United States shall nominate, and with the advice and consent of the Senate appoint, by virtue of this act, shall be the same as those, by law established, of similar officers in the government northwest of the river Ohio. And the powers, duties, and emoluments of a superintendent of Indian affairs for the southern department shall be united with those of the governor.

APPROVED, May 26, 1790.

ACT ADMITTING KENTUCKY INTO THE UNION—1791.

[FIRST CONGRESS, THIRD SESSION.]

Whereas the legislature of the commonwealth of Virginia, by an act entitled "An act concerning the erection of the district of Kentucky into an independent State," passed the eighteenth day of December, one thousand seven hundred and eighty-

* Kentucky was originally settled by the whites as a colony of Virginia, but after the revolutionary war the settlers demanded an independent government, under the following provision in the first constitution of Virginia: "The western and northern extent of Virginia shall, in all other respects, stand, as fixed by the charter of King James I, in the year 1609, and by the public treaty of peace between the courts of Great Britain and France, in the year 1763, unless by act of this legislature one or more governments be established westward of the Alleghany Mountains." It was not, however, until after there had been ten successive conventions elected by the people of the "district," and four successive enabling acts passed by the legislature of Virginia, that Kentucky was allowed to enter the Federal Union as an independent State, on an equality with those which had established themselves as a nation.

† See "Illinois," pages 429.

‡ See "Tennessee," pages 1064.

nne, have consented that the district of Kentucky, within the jurisdiction of the said commonwealth, and according to its actual boundaries at the time of passing the act aforesaid, should be formed into a new State; and whereas a convention of delegates, chosen by the people of the said district of Kentucky, have petitioned Congress to consent that, on the first day of June, one thousand seven hundred and ninety-two, the said district should be formed into a new State, and received into the Union, by the name of "The State of Kentucky:"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, and it is hereby enacted and declared, That the Congress doth consent that the said district of Kentucky, within the jurisdiction of the commonwealth of Virginia, and according to its actual boundaries on the eighteenth day of December, one thousand seven hundred and eighty-nine, shall, upon the first day of June, one thousand seven hundred and ninety-two, be formed into a new State, separate from, and independent of, the said commonwealth of Virginia.

SEC. 2. *And be it further enacted and declared, That upon the aforesaid first day of June, one thousand seven hundred and ninety-two, the said new State, by the name and style of the State of Kentucky, shall be received and admitted into this Union as a new and entire member of the United States of America.*

CONSTITUTION OF KENTUCKY—1792.*

We, the representatives of the people of the State of Kentucky, in convention assembled, do ordain and establish this constitution for its government.

ARTICLE I.

The powers of government shall be divided into three distinct departments, each of them to be confided to a separate body of magistracy, to wit, those which are legislative to one, those which are executive to another, and those which are judiciary to another.

No person, or collection of persons, being of one of these departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly permitted.

The legislative powers of this commonwealth shall be vested in a general assembly, which shall consist of a senate and house of representatives.

The representatives shall be chosen annually, by the qualified electors of each county respectively, on the first Tuesday in May; but the several elections may be continued for three days, if, in the opinion of the presiding officer or officers, it shall be necessary, and no longer.

No person shall be a representative who shall not have attained the age of twenty-four years, and have been a citizen and inhabitant of the State two years preceding his election, and the last six months thereof an inhabitant of the county in which he may be chosen; unless he shall have been absent on the public business of the United States, or this State.

Within two years after the first meeting of the general assembly, and within every subsequent term of four years, an enumeration of the free male inhabitants above twenty-one years of age shall be made, in such manner as may be directed by law. The number of the representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties, according to the number of free male inhabitants above the age of twenty-one years in

* This constitution was adopted by a convention which met at Danville April 2, 1792, and completed its labors on the 19th of April, 1792. The constitution was not submitted to the people for ratification.

each, and shall never be less than forty, nor greater than one hundred; but no county hereafter erected shall be entitled to a separate representation, until a sufficient number of free male inhabitants above the age of twenty-one years shall be contained within it, to entitle them to one representative, agreeable to the ratio which shall then be established.

The senators shall be chosen for four years. Until the first enumeration be made, the senate shall consist of eleven members, and thereafter for every four members added to the house of representatives, one member shall be added to the senate.

In choosing the senate, one member at least shall be elected from each county, until the number of counties is equal to the number of senators; after which, when a new county is made, it shall, as to the choice of senators, be considered as being a part of the county or counties from which it shall have been taken.

The senate shall be chosen in the following manner: All persons qualified to vote for representatives shall, on the first Tuesday in May, in the present year, and on the same day in every fourth year, forever thereafter, at the place appointed by law for choosing representatives, elect by ballot, by a majority of votes, as many persons as they are entitled to have for representatives for their respective counties, to be electors of the senate.

No person shall be chosen an elector who shall not have resided in the State three years next before his election, and who shall not have attained the age of twenty-seven years.

The electors of the senate shall meet at such place as shall be appointed for convening the legislature, on the third Tuesday in May, in the present year, and on the same day in every fourth year forever thereafter; and they, or a majority of them so met, shall proceed to elect by ballot, as senators, men of the most wisdom, experience, and virtue, above twenty-seven years of age, who shall have been residents of the State above two whole years next preceding the election. If on the ballot two or more shall have an equal number of ballots in their favor, by which the choice shall not be determined by the first ballot, then the electors shall again ballot before they separate, in which they shall be confined to the persons who, on the first ballot, shall have had an equal number, and they who shall have the greatest number in their favor on the second ballot shall be accordingly declared and returned duly elected; and if on the second ballot an equal number shall still be in favor of two or more persons, then the election shall be determined by lot between those who have equal numbers; which proceedings of the electors shall be certified under their hands, and returned to the secretary for the time being; to whom shall also be made, by the proper officers, returns of the persons chosen as electors in the respective counties.

The electors of senators shall judge of the qualifications and elections of members of their body, and on a contested election shall admit to a seat as an elector such qualified person as shall appear to them to have the greatest number of legal votes in his favor.

The electors, immediately on their meeting, and before they proceed to the election of senators, shall take an oath, or affirmation, to elect, without favor, affection, partiality, or prejudice, such person for governor, and such persons for senators, as they in their judgment and conscience believe best qualified for the respective offices.

That in case of refusal, death, resignation, disqualification, or removal out of this State, of any senator, the senate shall immediately thereupon, or at their next meeting thereafter, elect, by ballot, in the same manner as the electors are herein directed to choose senators, another person in his place, for the residue of the said term of four years.

The general assembly shall meet on the first Monday in November in every year, till the time of their meeting shall be altered by the legislature, unless sooner convened by the governor.

Each house shall choose its speaker and other officers, and the senate shall also choose a speaker, *pro tempore*, when their speaker shall exercise the office of governor.

Each house shall judge of the qualifications of its members; contested elections shall be determined by a committee to be selected, formed, and regulated, in such manner as shall be directed by law. A majority of each house shall constitute a

quorum to do business, but a smaller number may adjourn from day to day, and may be authorized by law to compel the attendance of absent members, in such manner and under such penalties as may be provided.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

Each house shall keep a journal of its proceedings, and publish them weekly, except such parts of them as may require secrecy, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on the journals.

The doors of each house and of committees of the whole shall be open, unless when the business shall be such as ought to be kept secret.

Neither house shall, without the consent of the other, adjourn for more than three days; nor to any other place than that in which the two houses shall be sitting.

The members of the general assembly and the electors of the senate shall receive from the public treasury a compensation for their services, which for the present shall be six shillings a day during their attendance on, going to, and returning from the legislature, and the place for choosing the senators; but the same may be increased or diminished by law, if circumstances shall require it, but no alteration shall be made to take effect during the existence of the legislature which shall make such alteration. They shall in all cases, except treason, felony, breach, or surety of the peace, be privileged from arrest during their attendance at the session of the respective houses, and at the place for choosing senators, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he shall have been elected, or for one year afterwards, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during the time such senator or representative was in office: *Provided*, That no member of the first legislature which shall be assembled under this constitution shall be precluded from being appointed to any office which may have been created during his time of service in the said legislature; and no minister of religious society, member of Congress, or other person holding any office of profit under the United States, or this commonwealth, except attorneys at law, justices of the peace, militia officers, and coroners, shall be a member of either house, during his continuance to act as a minister, in Congress, or in office.

When vacancies happen in the house of representatives, the speaker shall issue writs of election to fill such vacancies.

All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in other bills.

Each senator, representative, and sheriff shall, before he be permitted to act as such, take an oath, or make affirmation, that he hath not directly or indirectly given or promised any bribe or treat to procure his election to said office, and every person shall be disqualified from serving as a senator, representative, or sheriff, for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat, or canvassed for the said office.

Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it, but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon their journals, and proceed to reconsider it; if after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent with the objections to the other house, by which likewise it shall be reconsidered, and, if approved by two-thirds of that house, it shall be a law. But in such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journals of each house respectively; if any bill shall not be returned by the governor within ten days, Sundays excepted, after it shall have been presented to him, it shall be a law in like manner as if he had signed it; unless the general assembly by their adjournment prevent

its return, in which case it shall be a law, unless sent back within three days after their next meeting.

Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect be approved by him; or, being disapproved, shall be repassed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

ARTICLE II.

The supreme executive power of this commonwealth shall be vested in a governor.

The governor shall be chosen by the electors of the senate, at the same time, at the same place, and in the same manner that they are herein directed to elect senators, and the said electors shall make return of their proceedings in the choice of a governor to the secretary for the time being.

The governor shall hold his office during four years from the first of June next ensuing his election.

He shall be at least thirty years of age, and have been a citizen and inhabitant of this State at least two years next before his election, unless he shall have been absent on public business of the United States, or of this State.

No member of Congress, or person holding any office under the United States, or this State, shall exercise the office of governor.

The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected.

He shall be commander-in-chief of the army and navy of this commonwealth, and of the militia, except when they shall be called into the service of the United States.

He shall nominate and, by and with the advice and consent of the senate, appoint all officers whose offices are established by this constitution, or shall be established by law, and whose appointments are not herein otherwise provided for; but no person shall be appointed to an office within any county who shall not have been a citizen or inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if it shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

The governor shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

He shall have power to remit fines and forfeitures, and grant reprieves and pardons, except in cases of impeachment; in cases of treason, he shall have power to grant reprieves until the end of the next session of the general assembly, in whom the power of pardoning shall be vested.

He may require information in writing from the officers in the executive department upon any subject relating to the duties of their respective offices.

He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he shall judge expedient.

He may, on extraordinary occasions, convene the general assembly, and in case of disagreement between the two houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months.

He shall take care that the laws be faithfully executed.

In case of the death or resignation of the governor, or of his removal from office, the speaker of the senate shall exercise the office of governor, until another shall be duly qualified.

An attorney-general shall be appointed and commissioned during good behavior; who shall appear for the commonwealth in all criminal prosecutions, and in all civil cases in which the commonwealth shall be interested in any of the superior courts; shall give his opinion when called upon for that purpose by either branch of the

legislature, or by the executive, and shall perform such other duties as shall be enjoined him by law.

A secretary shall be appointed and commissioned during the governor's continuance in office, if he shall so long behave himself well; he shall keep a fair register of and attest all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either branch of the legislature, and shall perform such other duties as shall be enjoined him by law.

ARTICLE III.

In elections by the citizens, all free male citizens of the age of twenty-one years, having resided in the State two years, or the county in which they offer to vote one year next before the election, shall enjoy the rights of an elector, but no person shall be entitled to vote except in the county in which he shall actually reside at the time of the election.

All elections shall be by ballot.

Electors shall in all cases, except treason, felony, and breach or surety of the peace, be privileged from arrest during their attendance at elections, and in going to and returning from them.

ARTICLE IV.

The house of representatives shall have the sole power of impeaching.

All impeachments shall be tried by the senate; when sitting for that purpose, the senators shall be upon oath or affirmation; no person shall be convicted without the concurrence of two-thirds of the members present.

The governor and all other civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this commonwealth; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

ARTICLE V.

The judicial power of this commonwealth, both as to matters of law and equity, shall be vested in one supreme court, which shall be styled the court of appeals, and in such inferior courts as the legislature may from time to time ordain and establish.

The judges of both the supreme and inferior courts shall hold their offices during good behavior; but for any reasonable cause which shall not be sufficient ground of impeachment, the governor may remove any of them on the address of two-thirds of each branch of the legislature. They shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office.

The supreme court shall have original and final jurisdiction in all cases respecting the titles to land under the present land-laws of Virginia, including those which may be depending in the present supreme court for the district of Kentucky at the time of establishing the said supreme court; and in all cases concerning contracts for lands, prior to the establishment of those titles. And the said court shall have power to hear and determine the same in a summary way, and to direct the mode of bringing the same to a hearing, so as to enable them to do right and justice to the parties, with as little delay and at as small an expense as the nature of the business will allow; but the said court shall, in all such cases, oblige the parties to state the material parts of their complaint and defence in writing; and shall, on the conclusion of every cause, state on the records of the whole merits of the case, the questions arising therefrom, the opinions of the court thereupon, and a summary of the reasons in support of those opinions.

And it shall be the duty of each judge of the supreme court, present at the hearing of any such case, and differing from a majority of the court, to deliver his opin-

ion in writing, to be entered as aforesaid; and each judge shall deliver his opinion in open court. And the said court shall have power, on the determination of any such cause, to award the legal costs against either party, or to divide the same among the different parties, as to them shall seem just and right. And the said court shall have full power to take such steps as they may judge proper to perpetuate testimony in all cases concerning such titles: *Provided*, That a jury shall always be impanelled for the finding of such facts as are not agreed by the parties; unless the parties, or their attorneys, shall waive their right of trial by jury and refer the matter of fact to the decision of the court: *Provided also*, That the legislature may, whenever they may judge it expedient, pass an act or acts to regulate the mode of proceedings in such cases, or to take away entirely the original jurisdiction hereby given to the said court in such cases.

In all other cases the supreme court shall have appellate jurisdiction only, with such exceptions and under such regulations as the legislature shall make; and the legislature may, from time to time, vest in the supreme and inferior courts, or either of them, such powers, both in law and equity, as they shall judge proper and necessary for the due administration of justice.

A competent number of justices of the peace shall be appointed in each county; they shall be commissioned during good behavior, but may be removed on conviction of misbehavior in office, or any infamous crime, or on the address of both houses of the legislature.

The judges shall, by virtue of their office, be conservators of the peace throughout the State. The style of all process shall be, "The Commonwealth of Kentucky;" all prosecutions shall be carried on in the name and by the authority of the commonwealth of Kentucky, and conclude "against the peace and dignity of the same."

ARTICLE VI.

Sheriffs and coroners shall, at the times and places of elections of representatives, be chosen by the citizens of each county, qualified to vote for representatives. They shall hold their office for three years, if they shall so long behave themselves well, and until a successor be duly qualified; but no person shall be twice chosen or appointed sheriff in any term of six years. Vacancies in either of the said offices shall be filled by a new appointment, to be made by the governor, to continue until the next general election, and until a successor shall be chosen and qualified as aforesaid.

The freemen of this commonwealth shall be armed and disciplined for its defence. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

The field and staff officers of the militia shall be appointed by the governor, except the battalion staff-officers, who shall be appointed by the field-officers of each battalion respectively.

The officers of companies shall be chosen by the persons enrolled in the list of each company, and the whole shall be commissioned during good behavior, and during their residence in the bounds of the battalion or company to which they shall be appointed.

Each court shall appoint its own clerk, who shall hold his office during good behavior; but no person shall be appointed clerk, only *pro tempore*, who shall not produce to the court appointing him a certificate from a majority of the judges of the court of appeals that he hath been examined by their clerk, in their presence and under their direction, and that they judge him to be well qualified to execute the office of clerk to any court of the same dignity with that for which he offers himself. They shall be removable for breach of good behavior by the court of appeals only, who shall be judges of the fact as well as of the law. Two-thirds of the members present must concur in the sentence.

All commissions shall be in the name and by the authority of the State of Kentucky, and be sealed with the State seal and signed by the governor.

The State treasurer shall be appointed annually by the joint ballot of both houses.

ARTICLE VII.

Members of the general assembly and all officers, executive and judicial, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I do solemnly swear for affirm, as the case may be] that I will be faithful and true to the commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my abilities, the office of ———, according to law."

ARTICLE VIII.

Treason against the commonwealth shall consist only in levying war against it, or in adhering to its enemies, giving them aid or comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his own confession in open court.

Laws shall be made to exclude from office and from suffrage those who thereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practices.

No money shall be drawn from the treasury but in consequence of appropriations made by law, nor shall any appropriations of money for the support of an army be made for a longer term than one year, and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

The legislature shall direct by law in what manner and what courts suits may be brought against the State.

The manner of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed by the legislature the most solemn appeal to God.

All laws now in force in the State of Virginia, not inconsistent with this constitution, which are of a general nature, and not local to the eastern part of that State, shall be in force in this State, until they shall be altered or repealed by the legislature.

The compact with the State of Virginia, subject to such alterations as may be made therein, agreeably to the mode prescribed by the said compact, shall be considered as a part of this constitution.

ARTICLE IX.

The legislature shall have no power to pass laws for the emancipation of slaves without the consent of their owners, previous to such emancipation, and a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State. They shall pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming chargeable to the county in which they reside. They shall have full power to prevent slaves being brought into this State as merchandise. They shall have full power to prevent any slaves being brought into this State from a foreign country, and to prevent those from being brought into this State who have been since the first day of January, one thousand seven hundred and eighty-nine, or hereafter may be, imported into any of the United States from a foreign country. And they shall have full power to pass such laws as may be necessary to oblige the owners of slaves to treat them with humanity, to provide for them necessary clothing and provision, to abstain from all injuries to them extending to life or limb, and in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of their owner or owners.

ARTICLE X.

The place for the seat of government shall be fixed in the following manner: The house of representatives shall, during their session which shall be held in the year

one thousand seven hundred and ninety two, choose by ballot twenty-one persons, from whom the representation from Fayette and Mercer Counties then present shall alternately strike out one, until the number shall be reduced to five, who, or any three of them concurring in opinion, shall have power to fix on the place for the seat of government, to receive grants from individuals therefor, and to make such conditions with the proprietor or proprietors of the land so pitched on by them as to them shall seem right, and shall be agreed to by the said proprietor or proprietors, and to lay off a town thereon, in such manner as they shall judge most proper.

The general assembly and the supreme courts shall within five years hold their sessions at the place so pitched upon by the said commissioners; and the seat of government so fixed shall continue until it shall be changed by two-thirds of both branches of the legislature. The commissioners, before they proceed to act, shall take an oath or make affirmation that they will discharge the trust imposed on them in such manner as in their judgment will be most beneficial to the State at large.

ARTICLE XI.

That the citizens of this State may have an opportunity to amend or change this constitution in a peaceable manner, if to them it shall seem expedient, the persons qualified to vote for representatives shall, at the general election to be held in the year one thousand seven hundred and ninety-seven, vote also, by ballot, for or against a convention, as they shall severally choose to do; and if thereupon it shall appear that a majority of all the citizens in the State voting for representatives have voted for a convention, the general assembly shall direct that a similar ballot shall be taken the next year; and if thereupon it shall also appear that a majority of all the citizens in the State voting for representatives have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there shall be in the house of representatives, to be chosen in the same manner, (at the same places and at the same time that representatives are,) by the citizens entitled to vote for representatives, and to meet within three months after the said election for the purpose of readopting, amending, or changing this constitution. If it shall appear upon the ballot of either year that a majority of the citizens voting for representatives is not in favor of a convention being called, it shall not be done until two-thirds of both branches of the legislature shall deem it expedient.

ARTICLE XII.

That the general, great, and essential principles of liberty and free government may be recognized and unalterably established, we declare that all men, when they form a social compact, are equal, and that no man or set of men are entitled to exclusive or separate public emoluments or privileges from the community, but in consideration of public services.

That all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness. For the advancement of those ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.

That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man of right can be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority can in any case whatever control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious societies or modes of worship.

That the civil rights, privileges, or capacities of any citizen shall in no ways be diminished or enlarged on account of his religion.

That all elections shall be free and equal.

That trial by jury shall be as heretofore, and the right thereof remain inviolate.

That the printing-press shall be free to every person who undertakes to examine the proceedings of the legislature or any branch of government, and no law shall

ever be made to restrain the right thereof. The free communications of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

In prosecutions for publications of papers, investigating the official conduct of officers or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable searches and seizures; and that no warrant to search any place or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.

That in all criminal prosecutions the accused hath a right to be heard by himself and his counsel; to demand the nature and cause of accusation against him; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers, or the law of the land.

That no person shall for any indictable offence be proceeded against criminally by information, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger, or by leave of the court for oppression or misdemeanor in office.

No person shall, for the same offence, be twice put in jeopardy of his life or limb, nor shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being previously made to him.

That all courts shall be open, and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of law, and right and justice administered, without sale, denial, or delay.

That no power of suspending laws shall be exercised, unless by the legislature or its authority.

That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

That all prisoners shall be bailable by sufficient sureties, unless for capital offences, when the proof is evident or presumption great, and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

That no *ex post facto* law nor any law impairing contracts shall be made.

That no persons shall be attainted of treason or felony by the legislature.

That no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth.

That estates of such persons as shall destroy their own lives shall descend or vest as in case of natural death, and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

That the citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

That the right of the citizens to bear arms in defence of themselves and the State shall not be questioned.

That no standing army shall, in time of peace, be kept up, without the consent of the legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

That no soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

That the legislature shall not grant any title of nobility or hereditary distinction,

nor create any office the appointment to which shall be for a longer term than during good behavior.

That emigration from the State shall not be prohibited.

To guard against the high powers which have been delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or contrary to this constitution, shall be void.

SCHEDULE.

That no inconvenience may rise from the establishing the government of this State, and in order to carry the same into complete operation, it is hereby declared and ordained, that all rights, actions, prosecutions, claims, and contracts, as well individuals as of bodies-corporate, shall continue as if the said government had not been established.

That all officers, civil and military, now in commission under the State of Virginia, shall continue to hold and exercise their offices until the tenth day of August next, and no longer.

That until the first enumeration shall be made, as directed by the sixth section of the first article of this constitution, the county of Jefferson shall be entitled to elect three representatives; the county of Lincoln, four representatives; the county of Fayette, nine representatives; the county of Nelson, six representatives; the county of Mercer, four representatives; the county of Madison, three representatives; the county of Bourbon, five representatives; the county of Woodford, four representatives; and the county of Mason, two representatives.

The general assembly shall meet at Lexington on the fourth day of June next.

All returns herein directed to be made to the secretary shall, previous to his appointment, be made to the clerk of the supreme court for the district of Kentucky.

Until a seal shall be provided for the State, the governor shall be at liberty to use his private seal.

The oaths of office herein directed to be taken may be administered by any justice of the peace, until the legislature shall otherwise direct.

All bonds given by any officer within the district of Kentucky, payable to the governor of Virginia, may be prosecuted in the name of the governor of Kentucky.

All offences against the laws of Virginia, which have been committed within the present district of Kentucky, or which may be committed within the same before the first day of June next, shall be cognizable in the courts of this State in the same manner that they would be if they were committed within this State, after the said first day of June.

At the elections herein directed to be held in May next, the sheriff of each county, or in case of his absence one of his deputies, shall preside, and if they neglect or refuse to act, the said elections shall be held by any one of the justices of the peace for the county where such neglect or refusal shall happen; each officer holding such election, having first taken an oath before a justice of the peace to conduct the said election with impartiality, shall have power to administer to any person offering to vote at such election the following oath or affirmation: "I do swear [or affirm] that I am qualified to vote for representatives in the county of ———, agreeably to the constitution formed for the State of Kentucky;" and such officers shall have a right to refuse to receive the vote of any person who shall refuse to take the said oath or make affirmation when tendered to him. And the said elections shall be held at the several places appointed for holding courts in the different counties.

The government of the commonwealth of Kentucky shall commence on the first day of June next.

Done in convention, at Danville, the nineteenth day of April, one thousand seven hundred and ninety-two, and of the Independence of the United States of America the sixteenth.

By order of the convention.

SAMUEL McDOWELL, *President.*

Attest: THO. TODD, *Clerk.*

CONSTITUTION OF KENTUCKY—1799.*

We, the representatives of the people of the State of Kentucky, in convention assembled, to secure to all the citizens thereof the enjoyment of the right of life, liberty, and property, and of pursuing happiness, do ordain and establish this constitution for its government:

ARTICLE I.

CONCERNING THE LEGISLATIVE DEPARTMENT.

SECTION 1. The powers of the government of the State of Kentucky shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judiciary, to another.

SEC. 2. No person or collection of persons, being one of those departments, shall exercise any power properly belonging to either of the others; except in the instances hereinafter expressly directed or permitted.

ARTICLE II.

CONCERNING THE DISTRIBUTION OF THE POWERS OF THE GOVERNMENT.

SECTION 1. The legislative power of this commonwealth shall be vested in two distinct branches; the one to be styled "the house of representatives," the other "the senate," and both together "the general assembly of the commonwealth of Kentucky."

SEC. 2. The members of the house of representatives shall continue in service for the term of one year from the day of the commencement of the general election, and no longer.

SEC. 3. Representatives shall be chosen on the first Monday in the month of August in every year; but the presiding officers of the several elections shall continue the same for three days, at the request of any one of the candidates.

SEC. 4. No person shall be a representative who, at the time of his election, is not a citizen of the United States, and hath not attained to the age of twenty-four years, and resided in this State two years next preceding his election, and the last year thereof in the county or town for which he may be chosen.

SEC. 5. Elections for representatives for the several counties entitled to representation shall be held at the places of holding their respective courts, or in the several election precincts into which the legislature may think proper, from time to time, to divide any or all of those counties: *Provided*, That when it shall appear to the legislature that any town hath a number of qualified voters equal to the ratio then fixed, such town shall be invested with the privilege of a separate representation, which shall be retained so long as such town shall contain a number of qualified voters equal to the ratio which may, from time to time, be fixed by law, and thereafter elections, for the county in which such town is situated, shall not be held therein.

SEC. 6. Representation shall be equal and uniform in this commonwealth; and shall be forever regulated and ascertained by the number of qualified electors therein. In the year eighteen hundred and three, and every fourth year thereafter, an enumeration of all the free male inhabitants of the State, above twenty-one years of age, shall be made, in such manner as shall be directed by law. The number of representatives shall, in the several years of making these enumerations, be so fixed as not to be less than fifty-eight, nor more than one hundred, and they shall be apportioned for the four years next following, as near as may be, among the several counties and

* This constitution was framed by a convention, called in accordance with the eleventh article of the constitution of 1792, which met at Frankfort July 22, 1799, and completed its labors August 7, 1799. It was not submitted to the people, and it took effect January 1, 1800.

towns, in proportion to the number of qualified electors, but, when a county may not have a sufficient number of qualified electors to entitle it to one representative, and when the adjacent county or counties may not have a residuum or residuums, which, when added to the small county, would entitle it to a separate representation, it shall then be in the power of the legislature to join two or more together, for the purpose of sending a representative: *Provided*, That when there are two or more counties adjoining, which have residuums over and above the ratio when fixed by law, if said residuums when added together will amount to such ratio, in that case one representative shall be added to that county having the largest residuum.

SEC. 7. The house of representatives shall choose its speaker and other officers.

SEC. 8. In all elections for representatives, every free male citizen (negroes, mulattoes, and Indians excepted) who, at the time being, hath attained to the age of twenty-one years, and resided in the State two years, or the county or town in which he offers to vote one year next preceding the election, shall enjoy the right of an elector; but no person shall be entitled to vote, except in the county or town in which he may actually reside at the time of the election, except as is herein otherwise provided. Electors shall in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at, going to, and returning from elections.

SEC. 9. The members of the senate shall be chosen for the term of four years; and, when assembled, shall have the power to choose its officers annually.

SEC. 10. At the first session of the general assembly after this constitution takes effect, the senators shall be divided by lot, as equally as may be, into four classes: the seats of the senators of the first class shall be vacated at the expiration of the first year; of the second class at the expiration of the second year; of the third class at the expiration of the third year; and of the fourth class at the expiration of the fourth year; so that one-fourth shall be chosen every year, and a rotation thereby kept up perpetually.

SEC. 11. The senate shall consist of twenty-four members at least, and for every three members above fifty-eight, which shall be added to the house of representatives, one member shall be added to the senate.

SEC. 12. The same number of senatorial districts shall, from time to time, be established by the legislature, as there may then be senators allotted to the State; which shall be so formed as to contain, as near as may be, an equal number of free male inhabitants in each, above the age of twenty-one years, and so that no county shall be divided, or form more than one district; and where two or more counties compose a district, they shall be adjoining.

SEC. 13. When an additional senator may be added to the senate, he shall be annexed by lot to one of the four classes, so as to keep them as nearly equal in number as possible.

SEC. 14. One senator for each district shall be elected by those qualified to vote for representatives therein, who shall give their votes at the several places in the counties or towns where elections are by law directed to be held.

SEC. 15. No person shall be a senator who, at the time of his election, is not a citizen of the United States, and who hath not attained to the age of thirty-five years, and resided in this State six years next preceding his election, and the last year thereof in the district from which he may be chosen.

SEC. 16. The first election for senators shall be general throughout the State, and at the same time that the general election for representatives is held; and thereafter there shall, in like manner, be an annual election for senators to fill the places of those whose time of service may have expired.

SEC. 17. The general assembly shall convene on the first Monday in the month of November in every year, unless a different day be appointed by law; and their session shall be held at the seat of government.

SEC. 18. Not less than a majority of the members of each house of the general assembly shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members, in such manner, and under such penalties, as may be prescribed thereby.

SEC. 19. Each house of the general assembly shall judge of the qualifications, elections, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

SEC. 20. Each house of the general assembly may determine the rules of its proceedings; punish a member for disorderly behavior; and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 21. Each house of the general assembly shall keep and publish, weekly, a journal of its proceedings; and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on their journal.

SEC. 22. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 23. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be one dollar and a half a day, during their attendance on, going to, and returning from the session of their respective houses: *Provided*, That the same may be increased or diminished by law; but no alteration shall take effect during the session at which such alteration shall be made.

SEC. 24. The members of the general assembly shall, in all cases, except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 25. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this commonwealth, which shall have been created, or the emoluments of which shall have been increased, during the time such senator or representative was in office, except to such offices or appointments as may be made or filled by the elections of the people.

SEC. 26. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect; nor whilst he holds or exercises any office of profit under this commonwealth, shall be eligible to the general assembly; except attorneys at law, justices of the peace, and militia officers: *Provided*, That justices of the courts of quarter-sessions shall be ineligible so long as any compensation may be allowed them for their services: *Provided also*, That attorneys for the commonwealth, who receive a fixed annual salary from the public treasury, shall be ineligible.

SEC. 27. No person who at any time may have been a collector of taxes for the State, or the assistant or deputy of such collector, shall be eligible to the general assembly until he shall have obtained a quietus for the amount of such collection, and for all public moneys for which he may be responsible.

SEC. 28. No bill shall have the force of a law until on three several days it be read over in each house of the general assembly, and free discussion allowed thereon; unless, in cases of urgency, four-fifths of the house where the bill shall be depending may deem it expedient to dispense with this rule.

SEC. 29. All bills for raising revenue shall originate in the house of representatives; but the senate may propose amendments, as in other bills: *Provided*, That they shall not introduce any new matter, under the color of an amendment, which does not relate to raising a revenue.

SEC. 30. The general assembly shall regulate by law by whom and in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

ARTICLE III.

CONCERNING THE EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of the commonwealth shall be vested in a chief magistrate, who shall be styled "the governor of the commonwealth of Kentucky."

SEC. 2. The governor shall be elected for the term of four years by the citizens entitled to suffrage at the time and places where they shall respectively vote for representatives. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, the election shall be determined by lot, in such manner as the legislature may direct.

SEC. 3. The governor shall be ineligible for the succeeding seven years after the expiration of the time for which he shall have been elected.

SEC. 4. He shall be at least thirty-five years of age, and a citizen of the United States, and have been an inhabitant of this State at least six years next preceding his election.

SEC. 5. He shall commence the execution of his office on the fourth Tuesday succeeding the day of the commencement of the general election on which he shall be chosen, and shall continue in the execution thereof until the end of four weeks next succeeding the election of his successor, and until his successor shall have taken the oaths or affirmations prescribed by this constitution.

SEC. 6. No member of Congress, or person holding any office under the United States, nor minister of any religious society, shall be eligible to the office of governor.

SEC. 7. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 8. He shall be commander-in-chief of the army and navy of this commonwealth, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless he shall be advised so to do by a resolution of the general assembly.

SEC. 9. He shall nominate, and, by and with the advice and consent of the senate, appoint all officers whose offices are established by this constitution or shall be established by law, and whose appointments are not herein otherwise provided for: *Provided*, That no person shall be so appointed to an office within any county who shall not have been a citizen and inhabitant therein one year next before his appointment, if the county shall have been so long erected; but if it shall not have been so long erected, then within the limits of the county or counties from which it shall have been taken: *Provided also*, That the county courts be authorized by law to appoint inspectors, collectors, and their deputies, surveyors of the highways, constables, jailers, and such other inferior officers, whose jurisdiction may be confined within the limits of a county.

SEC. 10. The governor shall have power to fill up vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of the next session.

SEC. 11. He shall have power to remit fines and forfeitures, grant reprieves and pardons, except in cases of impeachment. In cases of treason, he shall have power to grant reprieves until the end of the next session of the general assembly; in which the power of pardoning shall be vested.

SEC. 12. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 13. He shall from time to time give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he shall deem expedient.

SEC. 14. He may on extraordinary occasions convene the general assembly at the seat of government, or at a different place, if that should have become, since their last adjournment, dangerous from an enemy or from contagious disorders; and in case of disagreement between the two houses, with respect to the time of adjournment, adjourn them to such time as he shall think proper, not exceeding four months.

SEC. 15. He shall take care that the laws be faithfully executed.

SEC. 16. A lieutenant-governor shall be chosen at every election for a governor, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for governor and lieutenant-governor, the electors shall distinguish whom they vote for as governor, and whom as lieutenant-governor.

SEC. 17. He shall, by virtue of his office, be speaker of the senate, have a right, when in committee of the whole, to debate and vote on all subjects; and, when the senate are equally divided, to give the casting vote.

SEC. 18. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, resignation, or absence from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until another be duly qualified, or the governor absent or impeached shall return or be acquitted.

SEC. 19. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as speaker of the senate, the senators shall elect one of their own members as speaker, for that occasion. And if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the senate shall, in like manner, administer the government.

SEC. 20. The lieutenant-governor, while he acts as speaker to the senate, shall receive for his services the same compensation which shall for the same period be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government as governor, shall receive the same compensation which the governor would have received and been entitled to had he been employed in the duties of his office.

SEC. 21. The speaker *pro tempore* of the senate, during the time he administers the government, shall receive in like manner the same compensation which the governor would have received had he been employed in the duties of his office.

SEC. 22. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State during the recess of the general assembly, it shall be the duty of the secretary for the time being to convene the senate for the purpose of choosing a speaker.

SEC. 23. An attorney-general, and such other attorneys for the commonwealth as may be necessary, shall be appointed, whose duty shall be regulated by law. Attorneys for the commonwealth, for the several counties, shall be appointed by the respective courts having jurisdiction therein.

SEC. 24. A secretary shall be appointed and commissioned during the term for which the governor shall have been elected, if he shall so long behave himself well. He shall keep a fair register, and attest all the official acts and proceedings of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers, relative thereto, before either house of the general assembly, and shall perform such other duties as may be enjoined him by law.

SEC. 25. Every bill which shall have passed both houses shall be presented to the governor; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journal, and proceed to reconsider it; if, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall be likewise considered, and if approved by a majority of all the members elected to that house, it shall be a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the general assembly by their adjournment prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 26. Every order, resolution, or vote to which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed, by a majority of all the members elected to both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 27. Contested elections for a governor and lieutenant-governor shall be deter-

mined by a committee to be selected from both houses of the general assembly, and formed and regulated in such manner as shall be directed by law.

SEC. 28. The freemen of this commonwealth (negroes, mulattoes, and Indians excepted) shall be armed and disciplined for its defence. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 29. The commanding officers of the respective regiments shall appoint the regimental staff; brigadier generals, their brigade-majors; major-generals, their aids; and captains, the non-commissioned officers of companies.

SEC. 30. A majority of the field-officers and captains in each regiment shall nominate the commissioned officers in each company, who shall be commissioned by the governor: *Provided*, That no nomination shall be made, unless two at least of the field-officers are present; and, when two or more persons have an equal and the highest number of votes, the field-officer present, who may be highest in commission, shall decide the nomination.

SEC. 31. Sheriffs shall hereafter be appointed in the following manner: When time of a sheriff for any county may be about to expire, the county court for the same, a majority of all its justices being present, shall, in the months of September, October, or November, next preceding thereto, recommend to the governor two proper persons to fill the office, who are then justices of the county court, and who shall in such recommendation pay a just regard to seniority in office and a regular rotation. One of the persons so recommended shall be commissioned by the governor, and shall hold his office for two years, if he so long behave well, and until a successor be duly qualified. If the county courts shall omit, in the months aforesaid, to make such recommendation, the governor shall then nominate and, by and with the advice and consent of the senate, appoint a fit person to fill such office.

ARTICLE IV.

CONCERNING THE JUDICIAL DEPARTMENT.

SECTION 1. The judiciary power of this commonwealth, both as to matters of law and equity, shall be vested in one supreme court, which shall be styled the court of appeals, and in such inferior courts as the general assembly may from time to time erect and establish.

SEC. 2. The court of appeals, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only; which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law.

SEC. 3. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; but for any reasonable cause, which shall not be sufficient ground of impeachment, the governor shall remove any of them on the address of two-thirds of each house of the general assembly: *Provided, however*, That the cause or causes for which such removal may be required shall be stated at length in such address, and on the journal of each house. They shall at stated times receive for their services an adequate compensation to be fixed by law.

SEC. 4. The judges shall, by virtue of their office, be conservators of the peace throughout the State. The style of all process shall be "The commonwealth of Kentucky." All prosecutions shall be carried on in the name and by the authority of the commonwealth of Kentucky, and conclude, "against the peace and dignity of the same."

SEC. 5. There shall be established in each county now, or which may hereafter be erected, within this commonwealth a county court.

SEC. 6. A competent number of justices of the peace shall be appointed in each county; they shall be commissioned during good behavior, but may be removed on conviction of misbehavior in office, or of any infamous crime, or on the address of two-thirds of each house of the general assembly: *Provided, however*, That the cause

or causes for which such removal may be required shall be stated at length in such address, on the journal of each house.

SEC. 7. The number of the justices of the peace to which the several counties in this commonwealth now established, or which may hereafter be established, ought to be entitled, shall, from time to time, be regulated by law.

SEC. 8. When a surveyor, coroner, or justice of the peace shall be needed in any county, the county court for the same, a majority of all its justices concurring therein, shall recommend to the governor two proper persons to fill the office, one of whom he shall appoint thereto: *Provided, however,* That if the county court shall for twelve months omit to make such recommendation, after being requested by the governor to recommend proper persons, he shall then nominate and, by and with the advice and consent of the senate, appoint a fit person to fill such office.

SEC. 9. When a new county shall be erected, a competent number of justices of the peace, a sheriff, and coroner therefor, shall be recommended to the governor by a majority of all the members of the house of representatives, from the senatorial district or districts in which the county is situated; and if either of the persons thus recommended shall be rejected by the governor or the senate, another person shall immediately be recommended as aforesaid.

SEC. 10. Each court shall appoint its own clerk, who shall hold his office during good behavior; but no person shall be appointed clerk, only *pro tempore*, who shall not produce to the court appointing him a certificate from a majority of the judges of the court of appeals that he had been examined by their clerk, in their presence and under their direction, and that they judge him to be well qualified to execute the office of clerk of any court of the same dignity with that for which he offers himself. They shall be removable for breach of good behavior, by the court of appeal only, who shall be judges of the fact as well as of the law. Two-thirds of the members present must concur in the sentence.

SEC. 11. All commissions shall be in the name and by the authority of the State of Kentucky, and sealed with the State seal, and signed by the governor.

SEC. 12. The state treasurer, and printer or printers for the commonwealth, shall be appointed annually by the joint vote of both houses of the general assembly: *Provided,* That during the recess of the same the governor shall have power to fill vacancies which may happen in either of the said offices.

ARTICLE V.

CONCERNING IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeaching.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment, in such cases, shall not extend further than to removal from office and disqualification to hold any office of honor, trust, or profit under this commonwealth; but the party convicted shall nevertheless be liable and subject to indictment, trial, and punishment, according to law.

ARTICLE VI.

GENERAL PROVISIONS.

SECTION 1. Members of the general assembly, and all officers, executive and judicial, before they enter upon the execution of their respective offices, shall take the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will be faithful and true to the commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my abilities, the office of ———, according to law."

SEC. 2. Treason against the commonwealth shall consist only in levying war against it or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. Every person shall be disqualified from serving as a governor, lieutenant-governor, senator, or representative, for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat to procure his election.

SEC. 4. Laws shall be made to exclude from office and from suffrage those who shall thereafter be convicted of bribery, perjury, forgery, or other high crimes or misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practices.

SEC. 5. No money shall be drawn from the treasury but in pursuance of appropriations made by law, nor shall any appropriations of money for the support of an army be made for a longer time than one year; and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

SEC. 6. The general assembly shall direct by law in what manner and in what courts suits may be brought against the commonwealth.

SEC. 7. The manner of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed by the general assembly the most solemn appeal to God.

SEC. 8. All laws which, on the first day of June, one thousand seven hundred and ninety-two, were in force in the State of Virginia, and which are of a general nature, and not local to that State, and not repugnant to this constitution, nor to the laws which have been enacted by the legislature of this commonwealth, shall be in force within this State, until they shall be altered or repealed by the general assembly.

SEC. 9. The compact with the State of Virginia, subject to such alterations as may be made therein, agreeably to the mode prescribed by the said compact, shall be considered as part of this constitution.

SEC. 10. It shall be the duty of the general assembly to pass such laws as may be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that summary mode of adjustment.

SEC. 11. All civil officers for the commonwealth at large shall reside within the State, and all district, county, or town officers within their respective districts, counties, or towns, (trustees of towns excepted,) and shall keep their respective offices at such places therein as may be required by law; and all militia officers shall reside in the bounds of the division, brigade, regiment, battalion, or company to which they may severally belong.

SEC. 12. The attorney-general, and other attorneys for this commonwealth who receive a fixed annual salary from the public treasury, judges, and clerks of courts, justices of the peace, surveyors of lands, and all commissioned militia officers shall hold their respective offices during good behavior and the continuance of their respective courts, under the exceptions contained in this constitution.

SEC. 13. Absence on the business of this State, or the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage or of being elected or appointed to any office under this commonwealth, under the exceptions contained in this constitution.

SEC. 14. It shall be the duty of the general assembly to regulate by law in what cases and what deduction from the salaries of public officers shall be made for neglect of duty in their official capacity.

SEC. 15. Returns of all elections for governor, lieutenant-governor, and members of the general assembly shall be made to the secretary for the time being.

SEC. 16. In all elections by the people, and also by the senate and house of representatives, jointly or separately, the votes shall be personally and publicly given *viva voce*.

SEC. 17. No member of Congress nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power,

shall be eligible as a member of the general assembly of this commonwealth, or hold or exercise any office of trust or profit under the same.

SEC. 18. The general assembly shall direct by law how persons who now are, or may hereafter become, securities for public officers may be relieved or discharged on account of such securityship.

ARTICLE VII.

CONCERNING SLAVES.

SECTION 1. The general assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State. They shall pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a charge to any county in this commonwealth. They shall have full power to prevent slaves being brought into this State as merchandise. They shall have full power to prevent any slaves being brought into this State who have been, since the first day of January, one thousand seven hundred and eighty-nine, or may hereafter be, imported into any of the United States from a foreign country. And they shall have full power to pass such laws as may be necessary to oblige the owners of slaves to treat them with humanity, to provide for them necessary clothing and provision, to abstain from all injuries to them extending to life or limb, and in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of their owner or owners.

SEC. 2. In the prosecution of slaves for felony, no inquest by a grand jury shall be necessary, but the proceedings in such prosecutions shall be regulated by law, except that the general assembly shall have no power to deprive them of the privilege of an impartial trial by a petit jury.

ARTICLE VIII.

SECTION 1. The seat of government shall continue in the town of Frankfort, until it shall be removed by law: *Provided, however,* That two-thirds of all the members elected to each house of the general assembly shall concur in the passage of such law.

ARTICLE IX.

MODE OF REVISING THE CONSTITUTION.

SECTION 1. When experience shall point out the necessity of amending this constitution, and when a majority of all the members elected to each house of the general assembly shall, within the first twenty days of their stated annual session, concur in passing a law, specifying the alterations intended to be made, for taking the sense of the good people of this State as to the necessity and expediency of calling a convention, it shall be the duty of the several sheriffs and other returning officers, at the next general election which shall be held for representatives after the passage of such law, to open a poll for and make return to the secretary, for the time being, of the names of all those entitled to vote for representatives who have voted for calling a convention; and if thereupon it shall appear that a majority of all the citizens of this State entitled to vote for representatives have voted for a convention, the general assembly shall direct that a similar poll shall be opened and taken for the next year; and if thereupon it shall appear that a majority of all the citizens of this State entitled to vote for representatives have voted for a convention, the general assembly shall, at their next session, call a convention, to consist of as many members as there shall be in the house of representatives, and no more; to be chosen in the same manner and

proportion, at the same places and at the same time, that representatives are, by citizens entitled to vote for representatives; and to meet within three months after the said election for the purpose of readopting, amending, or changing this constitution. But if it shall appear, by the vote of either year, as aforesaid, that a majority of all the citizens entitled to vote for representatives did not vote for a convention, a convention shall not be called.

ARTICLE X.

That the general, great, and essential principles of liberty and free government may be recognized and established, we declare :

SECTION 1. That all free men, when they form a social compact, are equal, and that no man or set of men are entitled to exclusive, separate public emoluments or privileges from the community but in consideration of public services.

SEC. 2. That all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness. For the advancement of these ends, they have at all times an unalienable and indefeasible right to alter, reform, or abolish their government, in such manner as they may think proper.

SEC. 3. That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority ought, in any case whatever, to control or interfere with the rights of conscience; and that no preference shall ever be given by law to any religious societies or modes of worship.

SEC. 4. That the civil rights, privileges, or capacities of any citizen shall in no wise be diminished or enlarged on account of his religion.

SEC. 5. That all elections shall be free and equal.

SEC. 6. That the ancient mode of trial by jury shall be held sacred, and the right thereof remain inviolate.

SEC. 7. That printing-presses shall be free to every person who undertakes to examine the proceedings of the legislature or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.

SEC. 8. In prosecutions for the publication of papers investigating the official conduct of officers or men in a public capacity, or where the matter published is proper for public information, the truth thereof may be given in evidence. And in all indictments for libels, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other cases.

SEC. 9. That the people shall be secure in their persons, houses, papers, and possessions, from unreasonable seizures and searches; and that no warrant to search any place or to seize any person or thing, shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation.

SEC. 10. That in all criminal prosecutions, the accused hath a right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process for obtaining witnesses in his favor; and, in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; that he cannot be compelled to give evidence against himself, nor can he be deprived of his life, liberty, or property, unless by the judgment of his peers, or the law of the land.

SEC. 11. That no person shall, for any indictable offence, be proceeded against criminally by information, except in cases arising in the land or naval forces, or the militia, when in actual service, in time of war or public danger, by leave of the court, for oppression or misdemeanor in office.

SEC. 12. No person shall, for the same offence, be twice put in jeopardy of his life or limb, nor shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being previously made to him.

SEC. 13. That all courts shall be open, and every person, for any injury done him in his lands, goods, person, or reputation, shall have remedy by the due course of laws, and right and justice administered without sale, denial, or delay.

SEC. 14. That no power of suspending laws shall be exercised, unless by the legislature or its authority.

SEC. 15. That excessive bail shall not be required, nor excessive fines imposed, nor cruel punishments inflicted.

SEC. 16. That all prisoners shall be bailable by sufficient securities, unless for capital offences, when the proof is evident or presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

SEC. 17. That the person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

SEC. 18. That no *ex post facto* law, nor any law impairing contracts, shall be made.

SEC. 19. That no person shall be attainted of treason or felony by the legislature.

SEC. 20. That no attainder shall work corruption of blood, nor, except during the life of the offender, forfeiture of estate to the commonwealth.

SEC. 21. That the estates of such persons as shall destroy their own lives shall descend or vest as in case of natural death; and if any person shall be killed by casualty, there shall be no forfeiture by reason thereof.

SEC. 22. That the citizens have a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

SEC. 23. That the rights of the citizens to bear arms in defence of themselves and the State shall not be questioned.

SEC. 24. That no standing army shall, in time of peace, be kept up, without the consent of the legislature; and the military shall, in all cases and at all times, be in strict subordination to the civil power.

SEC. 25. That no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

SEC. 26. That the legislature shall not grant any title of nobility or hereditary distinction, nor create any office the appointment to which shall be for a longer term than during good behavior.

SEC. 27. That emigration from this State shall not be prohibited.

SEC. 28. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or contrary to this constitution, shall be void.

SCHEDULE.

That no inconvenience may arise from the alterations and amendments made in the constitution of this commonwealth, and in order to carry the same into complete operation, it is hereby declared and ordained:

SECTION 1. That all laws of this commonwealth in force at the time of making the said alterations and amendments, and not inconsistent therewith, and all rights, actions, prosecutions, claims, and contracts, as well of individuals as of bodies-corporate, shall continue as if the said alterations and amendments had not been made.

SEC. 2. That all officers now filling any office or appointment shall continue in the exercise of the duties of their respective offices or appointments for the terms therein expressed, unless by this constitution it is otherwise directed.

SEC. 3. The oaths of office herein directed to be taken may be administered by any justice of the peace until the legislature shall otherwise direct.

SEC. 4. The general assembly, to be held in November next, shall apportion the representatives and senators, and lay off the State into senatorial districts conform-

able to the regulations prescribed by this constitution. In fixing those apportionments, and in establishing those districts, they shall take for their guide the enumeration directed by law to be made in the present year by the commissioners of the tax, and the apportionments thus made shall remain unaltered until the end of the stated annual session of the general assembly in the year eighteen hundred and three.

SEC. 5. In order that no inconvenience may arise from the change made by this constitution in the time of holding the general election, it is hereby ordained that the first election for governor, lieutenant-governor, and members of the general assembly shall commence on the first Monday in May, in the year eighteen hundred. The persons then elected shall continue in office during the several terms of service prescribed by this constitution, and until the next general election which shall be held after their said terms shall have respectively expired. The returns for the said first election of governor and lieutenant governor shall be made to the secretary within fifteen days from the day of election, who shall, as soon as may be, examine and count the same in the presence of at least two judges of the court of appeals or district courts, and shall declare who are the persons thereby duly elected, and give them official notice of their election; and if any person shall be equal and highest on the poll, the said judges and secretary shall determine the election by lot.

SEC. 6. This constitution, except so much thereof as is therein otherwise directed, shall not be in force until the first day of June, in the year eighteen hundred; on which day the whole thereof shall take full and complete effect.

Done in convention, at Frankfort, the seventeenth day of August, one thousand seven hundred and ninety-nine, and of the Independence of the United States of America the twenty-fourth.

ALEXANDER S. BULLIT, *President*.

CONSTITUTION OF KENTUCKY—1850.*

PREAMBLE.

We, the representatives of the people of the State of Kentucky in convention assembled, to secure to all the citizens thereof the enjoyment of the rights of life, liberty, and property, and of pursuing happiness, do ordain and establish this constitution for its government:

ARTICLE I.

CONCERNING THE DISTRIBUTION OF THE POWERS OF GOVERNMENT.

SECTION 1. The powers of the government of the State of Kentucky shall be divided into three distinct departments, and each of them be confided to a separate body of magistracy, to wit, those which are legislative to one, those which are executive to another, and those which are judiciary to another.

SEC. 2. No person, or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted.

ARTICLE II.

CONCERNING THE LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in a house of representatives and senate, which together shall be styled "The General Assembly of the Commonwealth of Kentucky."

* This constitution was framed by a convention which met at Frankfort October 7, 1849, and completed its labors June 11, 1850. It was submitted to the people, and ratified by 71,563 votes against 20,302 votes.

SEC. 2. The members of the house of representatives shall continue in service for the term of two years from the day of the general election, and no longer.

SEC. 3. Representatives shall be chosen on the first Monday in August in every second year, and the mode of holding the elections shall be regulated by law.

SEC. 4. No person shall be a representative who, at the time of his election, is not a citizen of the United States, has not attained the age of twenty-four years, and who has not resided in this State two years next preceding his election, and the last year thereof in the county, town, or city for which he may be chosen.

SEC. 5. The general assembly shall divide each county of this commonwealth into convenient election-precincts, or may delegate power to do so to such county authorities as may be designated by law; and elections for representatives for the several counties shall be held at the places of holding their respective courts, and in the several election-precincts into which the counties may be divided: *Provided*, That when it shall appear to the general assembly that any city or town hath a number of qualified voters equal to the ratio then fixed, such city or town shall be invested with the privilege of a separate representation, in either or both houses of the general assembly, which shall be retained so long as such city or town shall contain a number of qualified voters equal to the ratio which may, from time to time, be fixed by law; and, thereafter, elections for the county in which such city or town is situated shall not be held therein; but such city or town shall not be entitled to a separate representation, unless such county, after the separation, shall also be entitled to one or more representatives. That whenever a city or town shall be entitled to a separate representation in either house of the general assembly, and by its numbers shall be entitled to more than one representative, such city or town shall be divided, by squares which are contiguous, so as to make the most compact form, into representative districts, as nearly equal as may be, equal to the number of representatives to which such city or town may be entitled; and one representative shall be elected from each district. In like manner shall said city or town be divided into senatorial districts, when by the apportionment more than one senator shall be allotted to such city or town, and a senator shall be elected from each senatorial district; but no ward or municipal division shall be divided by such division of senatorial or representative districts, unless it be necessary to equalize the elective, senatorial, or representative districts.

SEC. 6. Representation shall be equal and uniform in this commonwealth, and shall be forever regulated and ascertained by the number of qualified voters therein. In the year 1850, again in the year 1857, and every eighth year thereafter, an enumeration of all the qualified voters of the State shall be made; and, to secure uniformity and equality of representation, the State is hereby laid off into ten districts. The first district shall be composed of the counties of Fulton, Hickman, Ballard, McCracken, Graves, Calloway, Marshall, Livingston, Crittenden, Union, Hopkins, Caldwell, and Trigg. The second district shall be composed of the counties of Christian, Muhlenburg, Henderson, Daviess, Hancock, Ohio, Breckinridge, Meade, Grayson, Butler, and Edmonson. The third district shall be composed of the counties of Todd, Logan, Simpson, Warren, Allen, Monroe, Barren, and Hart. The fourth district shall be composed of the counties of Cumberland, Adair, Green, Taylor, Clinton, Russell, Wayne, Pulaski, Casey, Boyle, and Lincoln. The fifth district shall be composed of the counties of Harden, Larue, Bullitt, Spencer, Nelson, Washington, Marion, Mercer, and Anderson. The sixth district shall be composed of the counties of Garrard, Madison, Estill, Owsley, Rockcastle, Laurel, Clay, Whitley, Knox, Harlan, Perry, Letcher, Pike, Floyd, and Johnson. The seventh district shall be composed of the counties of Jefferson, Oldham, Trimble, Carroll, Henry, and Shelby, and the city of Louisville. The eighth district shall be composed of the counties of Bourbon, Fayette, Scott, Owen, Franklin, Woodford, and Jessamine. The ninth district shall be composed of the counties of Clarke, Bath, Montgomery, Fleming, Lewis, Greenup, Carter, Lawrence, Morgan, and Breathitt. The tenth district shall be composed of the counties of Mason, Bracken, Nicholas, Harrison, Pendleton, Campbell, Grant, Kenton, Boone, and Gallatin. The number of representatives shall, at the several sessions of the general assembly next after the making of the enumerations, be apportioned among

the ten several districts according to the number of qualified voters in each, and the representatives shall be apportioned, as near as may be, among the counties, towns, and cities in each district; and in making such apportionment the following rules shall govern, to wit: Every county, town, or city, having the ratio, shall have one representative; if double the ratio, two representatives, and so on. Next, the counties, towns, or cities having one or more representatives, and the largest number of qualified voters above the ratio, and counties having the largest number under the ratio, shall have a representative, regard being always had to the greatest number of qualified voters: *Provided*, That when a county may not have a sufficient number of qualified voters to entitle it to one representative, then such county may be joined to some adjacent county or counties, which counties shall send one representative. When a new county shall be formed of territory belonging to more than one district, it shall form a part of that district having the least number of qualified voters.

SEC. 7. The house of representatives shall choose its speaker and other officers.

SEC. 8. Every free white male citizen of the age of twenty-one years, who has resided in the State two years, or in the county, town, or city in which he offers to vote one year, next preceding the election, shall be a voter; but such voter shall have been for sixty days next preceding the election a resident of the precinct in which he offers to vote, and he shall vote in said precinct, and not elsewhere.

SEC. 9. Voters, in all cases except treason, felony, breach or surety of the peace, shall be privileged from arrest during their attendance at, going to, and returning from elections.

SEC. 10. Senators shall be chosen for the term of four years, and the senate shall have power to choose its officers biennially.

SEC. 11. Senators and representatives shall be elected, under the first apportionment after the adoption of this constitution, in the year 1851.

SEC. 12. At the session of the general assembly next after the first apportionment under this constitution, the senators shall be divided by lot, as equally as may be, into two classes; the seats of the first class shall be vacated at the end of two years from the day of the election, and those of the second class at the end of four years, so that one-half shall be chosen every two years.

SEC. 13. The number of representatives shall be one hundred, and the number of senators thirty-eight.

SEC. 14. At every apportionment of representation, the State shall be laid off into thirty-eight senatorial districts, which shall be so formed as to contain, as near as may be, an equal number of qualified voters, and so that no county shall be divided in the formation of a senatorial district, except such county shall be entitled, under the enumeration, to two or more senators; and where two or more counties compose a district they shall be adjoining.

SEC. 15. One senator for each district shall be elected by the qualified voters therein, who shall vote in the precincts where they reside, at the places where elections are by law directed to be held.

SEC. 16. No person shall be a senator who, at the time of his election, is not a citizen of the United States, has not attained the age of thirty years, and who has not resided in this State six years next preceding his election, and the last year thereof in the district for which he may be chosen.

SEC. 17. The election for senators, next after the first apportionment under this constitution, shall be general throughout the State, and at the same time that the election for representatives is held, and thereafter there shall be a biennial election for senators to fill the places of those whose term of service may have expired.

SEC. 18. The general assembly shall convene on the first Monday in November, after the adoption of this constitution, and again on the first Monday in November, 1851, and on the same day of every second year thereafter, unless a different day be appointed by law, and their sessions shall be held at the seat of government.

SEC. 19. Not less than a majority of the members of each house of the general assembly shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and shall be authorized by law to compel the attendance of absent members in such manner and under such penalties as may be prescribed thereby.

SEC. 20. Each house of the general assembly shall judge of the qualifications, elections, and returns of its members; but a contested election shall be determined in such manner as shall be directed by law.

SEC. 21. Each house of the general assembly may determine the rules of its proceedings, punish a member for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but not a second time for the same cause.

SEC. 22. Each house of the general assembly shall keep and publish, weekly, a journal of its proceedings, and the yeas and nays of the members on any question shall, at the desire of any two of them, be entered on their journal.

SEC. 23. Neither house, during the session of the general assembly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

SEC. 24. The members of the general assembly shall severally receive from the public treasury a compensation for their services, which shall be three dollars a day during their attendance on, and twelve and a half cents per mile for the necessary travel in going to, and returning from, the sessions of their respective houses: *Provided*, That the same may be increased or diminished by law; but no alteration shall take effect during the session at which such alteration shall be made; nor shall a session of the general assembly continue beyond sixty days, except by a vote of two-thirds of all the members elected to each house, but this shall not apply to the first session held under this constitution.

SEC. 25. The members of the general assembly shall, in all cases except treason, felony, breach or surety of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 26. No senator or representative shall, during the term for which he was elected, nor for one year thereafter, be appointed or elected to any civil office of profit under this commonwealth, which shall have been created, or the emoluments of which shall have been increased, during the said term, except to such offices or appointments as may be filled by the election of the people.

SEC. 27. No person, while he continues to exercise the functions of a clergyman, priest, or teacher of any religious persuasion, society, or sect, nor while he holds or exercises any office of profit under this commonwealth, or under the Government of the United States, shall be eligible to the general assembly, except attorneys at law, justices of the peace, and militia officers: *Provided*, That attorneys for the commonwealth, who receive a fixed annual salary, shall be ineligible.

SEC. 28. No person who at any time may have been a collector of taxes or public moneys for the State, or the assistant or deputy of such collector, shall be eligible to the general assembly unless he shall have obtained a quietus, six months before the election, for the amount of such collection, and for all public moneys for which he may have been responsible.

SEC. 29. No bill shall have the force of a law until, on three several days, it be read over in each house of the general assembly, and free discussion allowed thereon, unless, in cases of urgency, four-fifths of the house where the bill shall be depending may deem it expedient to dispense with this rule.

SEC. 30. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments, as in other bills: *Provided*, That they shall not introduce any new matter, under color of amendment, which does not relate to raising revenue.

SEC. 31. The general assembly shall regulate by law by whom and in what manner writs of election shall be issued to fill the vacancies which may happen in either branch thereof.

SEC. 32. The general assembly shall have no power to grant divorces, to change the names of individuals, or direct the sales of estates belonging to infants or other persons laboring under legal disabilities by special legislation; but by general laws shall confer such powers on the courts of justice.

SEC. 33. The credit of this commonwealth shall never be given or loaned in aid of any person, association, municipality, or corporation.

SEC. 34. The general assembly shall have no power to pass laws to diminish the resources of the sinking fund, as now established by law, until the debt of the State be paid, but may pass laws to increase them; and the whole resources of said fund, from year to year, shall be sacredly set apart and applied to the payment of the interest and principal of the State debt, and to no other use or purpose, until the whole debt of the State is fully paid and satisfied.

SEC. 35. The general assembly may contract debts to meet casual deficits or failures in the revenue; but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed five hundred thousand dollars; and the moneys arising from loans creating such debts shall be applied to the purposes for which they were obtained, or to repay such debts: *Provided*, That the State may contract debts to repel invasion, suppress insurrection, or, if hostilities are threatened, provide for the public defence.

SEC. 36. No act of the general assembly shall authorize any debt to be contracted on behalf of the commonwealth, except for the purposes mentioned in the thirty-fifth section of this article, unless provision be made therein to lay and collect an annual tax sufficient to pay the interest stipulated, and to discharge the debt within thirty years; nor shall such act take effect until it shall have been submitted to the people at a general election, and shall have received a majority of all the votes cast for or against it: *Provided*, That the general assembly may contract debts, by borrowing money to pay any part of the debt of the State, without submission to the people, and without making provision in the act authorizing the same for a tax to discharge the debt so contracted, or the interest thereon.

SEC. 37. No law enacted by the general assembly shall relate to more than one subject, and that shall be expressed in the title.

SEC. 38. The general assembly shall not change the venue in any criminal or penal prosecution, but shall provide for the same by general laws.

SEC. 39. The general assembly may pass laws authorizing writs of error in criminal or penal cases, and regulating the right of challenge of jurors therein.

SEC. 40. The general assembly shall have no power to pass any act or resolution for the appropriation of any money, or the creation of any debt, exceeding the sum of one hundred dollars, at any one time, unless the same, on its final passage, shall be voted for by a majority of all the members then elected to each branch of the general assembly, and the yeas and nays thereon entered on the journal.

ARTICLE III.

CONCERNING THE EXECUTIVE DEPARTMENT.

SECTION 1. The supreme executive power of the commonwealth shall be vested in a chief magistrate, who shall be styled the governor of the commonwealth of Kentucky.

SEC. 2. The governor shall be elected for the term of four years, by the qualified voters of the State, at the time when and places where they shall respectively vote for representatives. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, the election shall be determined by lot, in such manner as the general assembly may direct.

SEC. 3. The governor shall be ineligible for the succeeding four years after the expiration of the term for which he shall have been elected.

SEC. 4. He shall be at least thirty-five years of age, and a citizen of the United States, and have been an inhabitant of this State at least six years next preceding his election.

SEC. 5. He shall commence the execution of the duties of his office on the fifth Tuesday succeeding the day of the general election on which he shall have been chosen, and shall continue in the execution thereof until his successor shall have taken the oath or affirmation prescribed by this constitution.

SEC. 6. No member of Congress, or person holding any office under the United States, or minister of any religious society, shall be eligible to the office of governor.

SEC. 7. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he was elected.

SEC. 8. He shall be commander-in chief of the army and navy of this commonwealth, and of the militia thereof, except when they shall be called into the service of the United States; but he shall not command personally in the field, unless advised so to do by a resolution of the general assembly.

SEC. 9. He shall have power to fill vacancies that may occur, by granting commissions, which shall expire when such vacancies shall have been filled according to the provisions of this constitution.

SEC. 10. He shall have power to remit fines and forfeitures, grant reprieves and pardons, except in cases of impeachment. In cases of treason, he shall have power to grant reprieves until the end of the next session of the general assembly, in which the power of pardoning shall be vested; but he shall have no power to remit the fees of the clerk, sheriff, or commonwealth's attorney in penal or criminal cases.

SEC. 11. He may require information, in writing, from the officers in the executive department upon any subject relating to the duties of their respective offices.

SEC. 12. He shall, from time to time, give to the general assembly information of the state of the commonwealth, and recommend to their consideration such measures as he may deem expedient.

SEC. 13. He may, on extraordinary occasions, convene the general assembly at the seat of government, or at a different place if that should have become, since their last adjournment, dangerous from an enemy or from contagious disorders; and in case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not exceeding four months.

SEC. 14. He shall take care that the laws be faithfully executed.

SEC. 15. A lieutenant-governor shall be chosen at every regular election for governor, in the same manner, to continue in office for the same time, and possess the same qualifications, as the governor. In voting for governor and lieutenant-governor, the electors shall state for whom they vote as governor and for whom as lieutenant-governor.

SEC. 16. He shall, by virtue of his office, be speaker of the senate, have a right, when in committee of the whole, to debate and vote on all subjects, and, when the senate are equally divided, to give the casting vote.

SEC. 17. Should the governor be impeached, removed from office, die, refuse to qualify, resign, or be absent from the State, the lieutenant-governor shall exercise all the power and authority appertaining to the office of governor, until another be duly elected and qualified, or the governor absent or impeached shall return or be acquitted.

SEC. 18. Whenever the government shall be administered by the lieutenant-governor, or he shall fail to attend as speaker of the senate, the senators shall elect one of their own members as speaker for that occasion. And if, during the vacancy of the office of governor, the lieutenant-governor shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the State, the speaker of the senate shall, in like manner, administer the government: *Provided*, That whenever a vacancy shall occur in the office of governor, before the first two years of the term shall have expired, a new election for governor shall take place to fill such vacancy.

SEC. 19. The lieutenant-governor, or speaker *pro tempore* of the senate, while he acts as speaker of the senate, shall receive for his services the same compensation which shall, for the same period, be allowed to the speaker of the house of representatives, and no more; and during the time he administers the government, as governor, shall receive the same compensation which the governor would have received had he been employed in the duties of his office.

SEC. 20. If the lieutenant-governor shall be called upon to administer the government, and shall, while in such administration, resign, die, or be absent from the State

during the recess of the general assembly, it shall be the duty of the secretary of state, for the time being, to convene the senate for the purpose of choosing a speaker.

SEC. 21. The governor shall nominate and, by and with the advice and consent of the senate, appoint a secretary of state, who shall be commissioned during the term for which the governor was elected, if he shall so long behave himself well. He shall keep a fair register, and attest all the official acts of the governor, and shall, when required, lay the same, and all papers, minutes, and vouchers relative thereto, before either house of the general assembly; and shall perform such other duties as may be required of him by law.

SEC. 22. Every bill which shall have passed both houses shall be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, a majority of all the members elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be considered, and, if approved by a majority of all the members elected to that house, it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journals of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had signed it, unless the general assembly, by their adjournment, prevent its return; in which case it shall be a law, unless sent back within three days after their next meeting.

SEC. 23. Every order, resolution, or vote in which the concurrence of both houses may be necessary, except on a question of adjournment, shall be presented to the governor, and before it shall take effect be approved by him; or, being disapproved, shall be repassed by a majority of all the members elected to both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 24. Contested elections for governor and lieutenant-governor shall be determined by both houses of the general assembly, according to such regulations as may be established by law.

SEC. 25. A treasurer shall be elected by the qualified voters of the State, for the term of two years; and an auditor of public accounts, register of the land-office, and attorney-general for the term of four years. The duties and responsibilities of these officers shall be prescribed by law: *Provided*, That inferior State officers, not specially provided for in this constitution, may be appointed or elected, in such manner as shall be prescribed by law, for a term not exceeding four years.

SEC. 26. The first election under this constitution for governor, lieutenant-governor, treasurer, auditor of public accounts, register of the land-office, and attorney-general shall be held on the first Monday in August, in the year 1851.

ARTICLE IV.

CONCERNING THE JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of this commonwealth, both as to matters of law and equity, shall be vested in one supreme court, (to be styled the court of appeals,) the courts established by this constitution, and such courts, inferior to the supreme court, as the general assembly may, from time to time, erect and establish.

CONCERNING THE COURT OF APPEALS.

SEC. 2. The court of appeals shall have appellate jurisdiction only, which shall be coextensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may, from time to time, be prescribed by law.

SEC. 3. The judges of the court of appeals shall, after their first term, hold their offices for eight years, from and after their election, and until their successors shall be

duly qualified, subject to the conditions hereinafter prescribed, but for any reasonable cause the governor shall remove any of them on the address of two thirds of each house of the general assembly: *Provided, however,* That the cause or causes for which such removal may be required shall be stated at length in such address, and on the journal of each house. They shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during the time for which they shall have been elected.

SEC. 4. The court of appeals shall consist of four judges, any three of whom may constitute a court for the transaction of business. The general assembly, at its first session after the adoption of this constitution, shall divide the State, by counties, into four districts, as nearly equal in voting population and with as convenient limits as may be, in each of which the qualified voters shall elect one judge of the court of appeals: *Provided,* That whenever a vacancy shall occur in said court, from any cause, the general assembly shall have the power to reduce the number of judges and districts; but in no event shall there be less than three judges and districts. Should a change in the number of the judges of the court of appeals be made, the term of office and number of districts shall be so changed as to preserve the principle of electing one judge every two years.

SEC. 5. The judges shall, by virtue of their offices, be conservators of the peace throughout the State. The style of all process shall be "The Commonwealth of Kentucky." All prosecutions shall be carried on in the name and by the authority of the commonwealth of Kentucky, and conclude "against the peace and dignity of the same."

SEC. 6. The judges first elected shall serve as follows, to wit: One shall serve until the first Monday in August, 1852; one until the first Monday in August, 1854; one until the first Monday in August, 1856, and one until the first Monday in August, 1858. The judges, at the first term of the court succeeding their election, shall determine, by lot, the length of time which each one shall serve; and at the expiration of the service of each an election in the proper district shall take place to fill the vacancy. The judge having the shortest time to serve shall be styled the chief justice of Kentucky.

SEC. 7. If a vacancy shall occur in said court from any cause, the governor shall issue a writ of election to the proper district to fill such vacancy for the residue of the term: *Provided,* That if the unexpired term be less than one year, the governor shall appoint a judge to fill such vacancy.

SEC. 8. No person shall be eligible to the office of judge of the court of appeals who is not a citizen of the United States, a resident of the district for which he may be a candidate two years next preceding his election, at least thirty years of age, and who has not been a practising lawyer eight years, or whose service upon the bench of any court of record, when added to the time he may have practised law, shall not be equal to eight years.

SEC. 9. The court of appeals shall hold its sessions at the seat of government, unless otherwise directed by law; but the general assembly may, from time to time, direct that said court shall hold sessions in any one or more of said districts.

SEC. 10. The first election of the judges and clerks of the court of appeals shall take place on the second Monday in May, 1851, and thereafter, in each district, as a vacancy may occur, by the expiration of the term of office; and the judges of the said court shall be commissioned by the governor.

SEC. 11. There shall be elected, by the qualified voters of this State, a clerk of the court of appeals, who shall hold his office, from the first election, until the first Monday in August, 1858, and thereafter for the term of eight years from and after his election; and should the general assembly provide for holding the court of appeals in any one or more of said districts, they shall also provide for the election of a clerk by the qualified voters of such district, who shall hold his office for eight years, possess the same qualifications, and be subject to removal in the same manner, as the clerk of the court of appeals; but if the general assembly shall, at its first or any other session, direct the court of appeals to hold its sessions in more than one district, a clerk shall be elected by the qualified voters of such district. And the clerk

first provided for in this section shall be elected by the qualified voters of the other district or districts. The same principle shall be observed whenever the court shall be directed to hold its sessions in either of the other districts. Should the number of judges be reduced, the term of the office of clerk shall be six years.

SEC. 12. No person shall be eligible to the office of clerk of the court of appeals, unless he be a citizen of the United States, a resident of the State two years next preceding his election, of the age of twenty-one years, and have a certificate from a judge of the court of appeals, or a judge of a circuit court, that he has been examined by the clerk of his court, under his supervision, and that he is qualified for the office for which he is a candidate.

SEC. 13. Should a vacancy occur in the office of clerk of the court of appeals, the governor shall issue a writ of election, and the qualified voters of the State, or of the district in which the vacancy may occur, shall elect a clerk of the court of appeals, to serve until the end of the term for which such clerk was elected: *Provided*, That when a vacancy shall occur from any cause, or the clerk be under charges upon information, the judges of the court of appeals shall have power to appoint a clerk *pro tempore*, to perform the duties of clerk until such vacancy shall be filled or the clerk acquitted: *And provided further*, That no writ of election shall issue to fill a vacancy unless the unexpired term exceed one year.

SEC. 14. The general assembly shall direct, by law, the mode and manner of conducting and making due returns to the secretary of state of all elections of the judges and clerk or clerks of the court of appeals, and of determining contested elections of any of these officers.

SEC. 15. The general assembly shall provide for an additional judge or judges, to constitute, with the remaining judge or judges, a special court for the trial of such cause or causes as may, at any time, be pending in the court of appeals, on the trial of which a majority of the judges cannot sit, on account of interest in the event of the cause, or on account of their relationship to either party, or when a judge may have been employed in or decided the cause in the inferior court.

CONCERNING THE CIRCUIT COURTS.

SEC. 16. A circuit court shall be established in each county now existing, or which may hereafter be erected in this commonwealth.

SEC. 17. The jurisdiction of said court shall be and remain as now established, hereby giving to the general assembly the power to change or alter it.

SEC. 18. The right to appeal or sue out a writ of error to the court of appeals shall remain as it now exists, until altered by law, hereby giving to the general assembly the power to change, alter, or modify said right.

SEC. 19. At the first session after the adoption of this constitution, the general assembly shall divide the State into twelve judicial districts, having due regard to business, territory, and population: *Provided*, That no county shall be divided.

SEC. 20. They shall, at the same time that the judicial districts are laid off, direct elections to be held in each district, to elect a judge for said district, and shall prescribe in what manner the election shall be conducted. The first election of judges of the circuit court shall take place on the second Monday in May, 1851; and afterwards on the first Monday in August, 1856, and on the first Monday in August in every sixth year thereafter.

SEC. 21. All persons qualified to vote for members of the general assembly, in each district, shall have the right to vote for judges.

SEC. 22. No person shall be eligible as judge of the circuit court who is not a citizen of the United States, a resident of the district for which he may be a candidate two years next preceding his election, at least thirty years of age, and who has not been a practising lawyer eight years, or whose service upon the bench of any court of record, when added to the time he may have practised law, shall not be equal to eight years.

SEC. 23. The judges of the circuit court shall, after their first term, hold their office for the term of six years from the day of their election. They shall be commissioned

by the governor, and continue in office until their successors be qualified, but shall be removable from office in the same manner as the judges of the court of appeals, and the removal of a judge from his district shall vacate his office.

SEC. 24. The general assembly, if they deem it necessary, may establish one additional district every four years, but the judicial districts shall not exceed sixteen, until the population of this State shall exceed one million five hundred thousand.

SEC. 25. The judges of the circuit courts shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall be equal and uniform throughout the State, and which shall not be diminished during the time for which they were elected.

SEC. 26. If a vacancy shall occur in the office of judge of the circuit court, the governor shall issue a writ of election to fill such vacancy for the residue of the term: *Provided*, That if the unexpired term be less than one year, the governor shall appoint a judge to fill such vacancy.

SEC. 27. The judicial districts of this State shall not be changed, except at the first session after an enumeration, unless when a new district may be established.

SEC. 28. The general assembly shall provide by law for holding circuit courts when, from any cause, the judge shall fail to attend, or, if in attendance, cannot properly preside.

CONCERNING COUNTY COURTS.

SEC. 29. A county court shall be established in each county now existing, or which may hereafter be erected within this commonwealth, to consist of a presiding judge and two associate judges, any two of whom shall constitute a court for the transaction of business: *Provided*, The general assembly may at any time abolish the office of the associate judges, whenever it shall be deemed expedient; in which event they may associate with said court any or all of the justices of the peace for the transaction of business.

SEC. 30. The judges of the county court shall be elected, by the qualified voters in each county, for the term of four years, and shall continue in office until their successors be duly qualified, and shall receive such compensation for their services as may be provided by law.

SEC. 31. The first election of county-court judges shall take place at the same time of the election of judges of the circuit court. The presiding judge, first elected, shall hold his office until the first Monday in August, 1854. The associate judges shall hold their offices until the first Monday in August, 1852, and until their successors be qualified; and afterwards elections shall be held on the first Monday in August, in the years in which vacancies regularly occur.

SEC. 32. No person shall be eligible to the office of presiding or associate judge of the county court, unless he be a citizen of the United States, over twenty-one years of age, and shall have been a resident of the county in which he shall be chosen one year next preceding the election.

SEC. 33. The jurisdiction of the county court shall be regulated by law; and, until changed, shall be the same now vested in the county courts of this State.

SEC. 34. Each county in this State shall be laid off into districts of convenient size, as the general assembly may from time to time direct. Two justices of the peace shall be elected in each district, by the qualified voters therein, at such time and place as may be prescribed by law, for the term of four years, whose jurisdiction shall be co-extensive with the county. No person shall be eligible as a justice of the peace unless he be a citizen of the United States, twenty-one years of age, and a resident of the district in which he may be candidate.

SEC. 35. Judges of the county court, and justices of the peace, shall be conservators of the peace. They shall be commissioned by the governor. County and district officers shall vacate their offices by removal from the district or county in which they shall be appointed. The general assembly shall provide by law the manner of conducting and making due return of all elections of judges of the county court and justices of the peace, and for determining contested elections, and provide the mode of filling vacancies in these offices.

SEC. 36. Judges of the county court and justices of the peace, sheriffs, coroners, surveyors, jailers, county assessor, attorney for the county, and constable shall be subject to indictment or presentment for malfeasance or misfeasance in office, or wilful neglect in the discharge of their official duties, in such mode as may be prescribed by law, subject to appeal to the court of appeals; and, upon conviction, their offices shall become vacant.

SEC. 37. The general assembly may provide by law that the justices of the peace in each county shall sit at the court of claims, and assist in laying the county levy and making appropriations only.

SEC. 38. When any city or town shall have a separate representation, such city or town, and the county in which it is located, may have such separate municipal courts and executive and ministerial officers as the general assembly may, from time to time, provide.

SEC. 39. The clerks of the court of appeals, circuit and county courts, shall be removable from office by the court of appeals, upon information and good cause shown. The court shall be judges of the fact as well as the law. Two-thirds of the members present must concur in the sentence.

SEC. 40. The Louisville chancery court shall exist under this constitution, subject to repeal, and its jurisdiction to enlargement and modification by the general assembly. The chancellor shall have the same qualifications as a circuit-court judge, and the clerk of said court as a clerk of a circuit court, and the marshal of said court as a sheriff; and the general assembly shall provide for the election, by the qualified voters within its jurisdiction, of the chancellor, clerk, and marshal of said court, at the same time that the judge and clerk of the circuit court are elected for the county of Jefferson, and they shall hold their offices for the same time, and shall be removable in the same manner: *Provided*, That the marshal of said court shall be ineligible for the succeeding term.

SEC. 41. The city court of Louisville, the Lexington city court, and all other police-courts established in any city or town, shall remain, until otherwise directed by law, with their present powers and jurisdictions; and the judges, clerks, and marshals of such courts shall have the same qualifications, and shall be elected by the qualified voters of such cities or towns at the same time, and in the same manner, and hold their offices for the same term, as county judges, clerks, and sheriffs, respectively, and shall be liable to removal in the same manner. The general assembly may vest judicial powers, for police purposes, in mayors of cities, police judges, and trustees of towns.

ARTICLE V.

CONCERNING IMPEACHMENTS.

SECTION 1. The house of representatives shall have the sole power of impeachment.

SEC. 2. All impeachments shall be tried by the senate. When sitting for that purpose, the senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 3. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and disqualification to hold any office of honor, trust, or profit under this commonwealth; but the party convicted shall, nevertheless, be subject and liable to indictment, trial, and punishment by law.

ARTICLE VI.

CONCERNING EXECUTIVE AND MINISTERIAL OFFICERS FOR COUNTIES AND DISTRICTS.

SECTION 1. A commonwealth's attorney for each judicial district, and a circuit-court clerk for each county, shall be elected, whose term of office shall be the same as that of the circuit judges; also, a county-court clerk, an attorney, surveyor, coroner, and

jailer, for each county, whose term of office shall be the same as that of the presiding judge of the county court.

SEC. 2. No person shall be eligible to the offices mentioned in this article who is not at the time twenty-four years old, (except clerks of county and circuit courts, sheriffs, constables, and county attorneys, who shall be eligible at the age of twenty-one years,) a citizen of the United States, and who has not resided two years next preceding the election in the State, and one year in the county or district for which he is a candidate. No person shall be eligible to the office of commonwealth's or county attorney unless he shall have been a licensed practising attorney for two years. No person shall be eligible to the office of clerk unless he shall have procured from a judge of the court of appeals, or a judge of the circuit court, a certificate that he has been examined by the clerk of his court, under his supervision, and that he is qualified for the office for which he is a candidate.

SEC. 3. The commonwealth's attorney and circuit-court clerk shall be elected at the same time as the circuit judge—the commonwealth's attorney by the qualified voters of the district, the circuit-court clerk by the qualified voters of the county. The county attorney, clerk, surveyor, coroner, and jailer shall be elected at the same time and in the same manner as the presiding judge of the county court.

SEC. 4. A sheriff shall be elected in each county by the qualified voters thereof, whose term of office shall, after the first term, be two years, and until his successor be qualified; and he shall be reeligible for a second term; but no sheriff shall, after the expiration of the second term, be reeligible, or act as deputy, for the succeeding term. The first election of sheriff shall be on the second Monday in May, 1851; and the sheriffs then elected shall hold their offices until the first Monday in January, 1853, and until their successors be qualified; and on the first Monday in August, 1852, and on the first Monday of August in every second year thereafter, elections for sheriffs shall be held: *Provided*, That the sheriffs first elected shall enter upon the duties of their respective offices on the first Monday in June, 1851, and after the first election on the first Monday in January next succeeding their election.

SEC. 5. A constable shall be elected in every justice's district, who shall be chosen for two years, at such time and place as may be provided by law, whose jurisdiction shall be coextensive with the county in which he may reside.

SEC. 6. Officers for towns and cities shall be elected for such terms, and in such manner, and with such qualifications as may be prescribed by law.

SEC. 7. Vacancies in offices under this article shall be filled, until the next regular election, in such manner as the general assembly may provide.

SEC. 8. When a new county shall be erected, officers for the same, to serve until the next stated election, shall be elected or appointed in such a way and at such times as the general assembly may prescribe.

SEC. 9. Clerks, sheriffs, surveyors, coroners, constables, and jailers, and such other officers as the general assembly may from time to time require, shall, before they enter upon the duties of their respective offices, and as often thereafter as may be deemed proper, give such bond and security as shall be prescribed by law.

SEC. 10. The general assembly may provide for the election or appointment, for a term not exceeding four years, of such other county or district ministerial and executive officers as shall, from time to time, be necessary and proper.

SEC. 11. A county assessor shall be elected in each county at the same time and for the same term that the presiding judge of the county court is elected, until otherwise provided for by law. He shall have power to appoint such assistants as may be necessary and proper.

ARTICLE VII.

CONCERNING THE MILITIA.

SECTION 1. The militia of this commonwealth shall consist of all free, able-bodied male persons (negroes, mulattoes, and Indians excepted) resident in the same, between the ages of eighteen and forty-five years; except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this State; but those

who belong to religious societies, whose tenets forbid them to carry arms, shall not be compelled to do so, but shall pay an equivalent for personal services.

SEC. 2. The governor shall appoint the adjutant general and his other staff officers; the major-generals, brigadier-generals, and commandants of regiments shall respectively appoint their staff-officers; and commandants of companies shall appoint their non-commissioned officers.

SEC. 3. All militia officers, whose appointment is not herein otherwise provided for, shall be elected by persons subject to military duty within their respective companies, battalions, regiments, brigades, and divisions, under such rules and regulations, and for such terms, not exceeding six years, as the general assembly may, from time to time, direct and establish.

ARTICLE VIII.

GENERAL PROVISIONS.

SECTION 1. Members of the general assembly, and all officers, before they enter upon the execution of the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take the following oath or affirmation: "I do solemnly swear [or affirm, as the case may be] that I will support the Constitution of the United States and the constitution of this State, and be faithful and true to the commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my abilities, the office of ———, according to law; and I do further solemnly swear [or affirm] that since the adoption of the present constitution I, being a citizen of this State, have not fought a duel, with deadly weapons, within this State, nor out of it, with a citizen of this State, nor have I sent or accepted a challenge to fight a duel, with deadly weapons, with a citizen of this State; nor have I acted as second in carrying a challenge, or aided or assisted any person thus offending: So help me God."

SEC. 2. Treason against the commonwealth shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

SEC. 3. Every person shall be disqualified from holding any office of trust or profit for the term for which he shall have been elected, who shall be convicted of having given or offered any bribe or treat to procure his election.

SEC. 4. Laws shall be made to exclude from office and from suffrage those who shall thereafter be convicted of bribery, perjury, forgery, or other crimes or high misdemeanors. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practices.

SEC. 5. No money shall be drawn from the treasury but in pursuance of appropriations made by law, nor shall any appropriations of money for the support of an army be made for a longer time than two years, and a regular statement and account of the receipts and expenditures of all public money shall be published annually.

SEC. 6. The general assembly may direct, by law, in what manner, and in what courts, suits may be brought against the commonwealth.

SEC. 7. The manner of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed by the general assembly the most solemn appeal to God.

SEC. 8. All laws which, on the first day of June, one thousand seven hundred and ninety-two, were in force in the State of Virginia, and which are of a general nature, and not local to that State, and not repugnant to this constitution, nor to the laws which have been enacted by the general assembly of this commonwealth, shall be in force within this State, until they shall be altered or repealed by the general assembly.

SEC. 9. The compact with the State of Virginia, subject to such alterations as may be made therein agreeably to the mode prescribed by the said compact, shall be considered as part of this constitution.

SEC. 10. It shall be the duty of the general assembly to pass such law as shall be necessary and proper to decide differences by arbitrators, to be appointed by the parties who may choose that summary mode of adjustment.

SEC. 11. All civil officers for the commonwealth at large shall reside within the State, and all district, county, or town officers, within their respective districts, counties, or towns, (trustees of towns excepted,) and shall keep their offices at such places therein as may be required by law; and all militia officers shall reside in the bounds of the division, brigade, regiment, battalion, or company to which they may severally belong.

SEC. 12. Absence on the business of this State, or the United States, shall not forfeit a residence once obtained, so as to deprive any one of the right of suffrage, or of being elected or appointed to any office under this commonwealth, under the exception contained in this constitution.

SEC. 13. It shall be the duty of the general assembly to regulate, by law, in what cases, and what deductions from the salaries of public officers shall be made, for neglect of duty in their official capacity.

SEC. 14. Returns of all elections by the people shall be made to the secretary of state, for the time being, except in those cases otherwise provided for in this constitution, or which shall be otherwise directed by law.

SEC. 15. In all elections by the people, and also by the senate and house of representatives, jointly or separately, the votes shall be personally and publicly given *viva voce*: *Provided*, That dumb persons, entitled to suffrage, may vote by ballot.

SEC. 16. All elections by the people shall be held between the hours of six o'clock in the morning and seven o'clock in the evening.

SEC. 17. The general assembly shall, by law, prescribe the time when the several officers authorized or directed by this constitution to be elected or appointed shall enter upon the duties of their respective offices, except where the time is fixed by this constitution.

SEC. 18. No member of Congress, nor person holding or exercising any office of trust or profit under the United States, or either of them, or under any foreign power, shall be eligible as a member of the general assembly of this commonwealth, or hold or exercise any office of trust or profit under the same.

SEC. 19. The general assembly shall direct by law how persons who now are, or who may hereafter become, securities for public officers may be relieved or discharged on account of such securityship.

SEC. 20. Any person who shall, after the adoption of this constitution, either directly or indirectly, give, accept, or knowingly carry a challenge to any person or persons to fight in single combat, with a citizen of this State, with any deadly weapon, either in or out of the State, shall be deprived of the right to hold any office of honor or profit in this commonwealth, and shall be punished otherwise in such manner as the general assembly may prescribe by law.

SEC. 21. The governor shall have power, after five years from the time of the offence, to pardon all persons who shall have in anywise participated in a duel, either as principals, seconds, or otherwise, and to restore him or them to all the rights, privileges, and immunities to which he or they were entitled before such participation. And upon the presentation of such pardon, the oath prescribed in the first section of this article shall be varied to suit the case.

SEC. 22. At its first session after the adoption of this constitution the general assembly shall appoint not more than three persons, learned in the law, whose duty it shall be to revise and arrange the statute laws of this commonwealth, both civil and criminal, so as to have but one law on any one subject; and also three other persons, learned in the law, whose duty it shall be to prepare a code of practice for the courts, both civil and criminal, in this commonwealth, by abridging and simplifying the rules of practice and laws in relation thereto; all of whom shall, at as early a day as practicable, report the result of their labors to the general assembly for their adoption or modification.

SEC. 23. So long as the board of internal improvement shall be continued, the president thereof shall be elected by the qualified voters of this commonwealth, and hold

the office for the term of four years, and until another be duly elected and qualified. The election shall be held at the same time, and be conducted in the same manner, as the election of governor of this commonwealth under this constitution; but nothing herein contained shall prevent the general assembly from abolishing said board of internal improvement, or the office of president thereof.

SEC. 24. The general assembly shall provide, by law, for the trial of any contested election of auditor, register, treasurer, attorney-general, judges of circuit courts, and all other officers not otherwise herein specified.

SEC. 25. The general assembly shall provide by law for the making of the returns, by the proper officers, of the election of all officers to be elected under this constitution; and the governor shall issue commissions to the auditor, register, treasurer, president of the board of internal improvement, superintendent of public instruction, and such other officers as he may be directed by law to commission, as soon as he has ascertained the result of the election of those officers respectively.

SEC. 26. When a vacancy shall happen in the office of attorney-general, auditor of public accounts, treasurer, register of the land-office, president of the board of internal improvement, or superintendent of public instruction, the governor, in the recess of the senate, shall have power to fill the vacancy, by granting commissions which shall expire at the end of the next session, and shall fill the vacancy for the balance of the time by and with the advice and consent of the senate.

ARTICLE IX.

CONCERNING THE SEAT OF GOVERNMENT.

The seat of government shall continue in the city of Frankfort until it shall be removed by law: *Provided, however,* That two-thirds of all the members elected to each house of the general assembly shall concur in the passage of such law.

ARTICLE X.

CONCERNING SLAVES.

SECTION 1. The general assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated, and providing for their removal from the State. They shall have no power to prevent immigrants to this State from bringing with them such persons as are deemed slaves by the laws of any of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State. They shall pass laws to permit owners of slaves to emancipate them, saving the rights of creditors, and to prevent them from remaining in this State after they are emancipated. They shall have full power to prevent slaves being brought into this State as merchandise. They shall have full power to prevent slaves being brought into this State who have been, since the first day of January, one thousand seven hundred and eighty-nine, or may hereafter be, imported into any of the United States from a foreign country. And they shall have full power to pass such laws as may be necessary to oblige the owners of slaves to treat them with humanity; to provide for them necessary clothing and provisions; to abstain from all injuries to them, extending to life or limb; and in case of their neglect or refusal to comply with the directions of such laws, to have such slave or slaves sold for the benefit of their owner or owners.

SEC. 2. The general assembly shall pass laws providing that any free negro or mulatto hereafter immigrating to, and any slave hereafter emancipated in, and refusing to leave this State, or having left, shall return and settle within this State, shall be deemed guilty of felony, and punished by confinement in the penitentiary thereof.

SEC. 3. In the prosecution of slaves for felony, no inquest by a grand jury shall be necessary; but the proceedings in such prosecutions shall be regulated by law, except that the general assembly shall have no power to deprive them of the privilege of an impartial trial by a petit jury.

